

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 WEST VALLEY PUBLIC MEETING

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6 Ashford Office Complex

7 Conference Room C1

8 9030 Route 219

9 West Valley, New York

10 Wednesday, January 5, 2000

11
12 The above-entitled public meeting commenced, pursuant
13 to notice, at 7:07 p.m.
14

15 PRESENTERS AND PARTICIPANTS:

16 On behalf of the U.S. Nuclear Regulatory Commission:

17 LARRY CAMPER

18 ROBERT NELSON

19 JIM LIEBERMAN

20 CHIP CAMERON

21 JOHN RANDALL

22 JACK PARROTT

23 JOHN CONTARDI

24 KRISTINA BANOVA
25

1 PRESENTERS AND PARTICIPANTS: [Continued]

2 On behalf of the U.S. Environmental Protection Agency:

3 JEANETTE ENG

4
5 On behalf of the U.S. Department of Energy:

6 RICK AHEARN

7 JOHN EBERSOL

8 KEN PICA

9 MARK RAWLINGS

10 PAUL MERGES

11 DANIEL W. SULLIVAN

12
13 On behalf of the New York State Department of Environmental

14 Conservation:

15 TIMOTHY RICE

16
17 OTHER PARTICIPANTS:

18 ROBERT A. NELSON

19 DAVID R. STEINER

20 ROBERT E. STEINER

21 STEPHEN J. KRZES

22 DENNIS P. HEBNER

23 BLANCHE M. CHAMBERS

24 GARY A. ABRAHAM

25 LLOYD F. GERWITZ

1 OTHER PARTICIPANTS: [Continued]

2 HENRIETTE M. GERWITZ

3 HAL BRODIE

4 COLLEEN GERWITZ

5 THOMAS H. ATTRIDGE

6 PAUL BERMBIA

7 PAUL L. PICIULO

8 LANA E. REDEYE

9 JACK L. KRAJEWSKI

10 CHARLOTTE B. BANZER

11 KAREN A. MALONE

12 RAY VAUGHN

13 JAMES LITTLE

14 ROGER D. DIVINCENZO

15 LINDA E. WHITE

16 JAMES M. RAUCH

17 PAUL W. JANOWICZ

18 JOSEPH J. PATTI

19 LOUIS J. LAMBERT

20 ROBERT M. BERNERO

21 ANDREA L. MELLON

22 BILL DIBBLE

23 LEE LAMBERT

24 DIANE D'ARRIGO

25

P R O C E E D I N G S

[7:07 p.m.]

MR. CAMERON: Welcome to the West Valley public meeting. My name is Chip Cameron. I am the Special Counsel for Public Liaison at the NRC and I am pleased to serve as your facilitator for tonight's meeting. I just wanted to briefly cover three topics before we get into the program tonight.

One is what the purpose of the meeting is. The second is what my role as a facilitator will be tonight, and the third is the ground rules and format for tonight's meeting.

As far as the purpose of the meeting is concerned, in a few minutes the NRC Staff will be explaining that the Commission has issued a draft policy statement on the decommissioning criteria for West Valley. The Commission has asked for written comments on that policy statement, but the NRC also wanted to provide an opportunity to talk with you in person about the policy statement tonight and, first, to make sure that you understand the policy statement, that the NRC clears up anything that might be ambiguous in the statement or explains things that you have questions about so that you can understand it generally, but also if you do want to file written comments that you might be better prepared to do that.

Secondly, we want to consider any comments that you make tonight as formal comments on the policy statement, and we are transcribing the meeting for that purpose, so any comments

1 that you make tonight will be considered as comments on the
2 policy statement.

3 In terms of my role as a facilitator, I am going to
4 try to assist all of you in a number of ways -- one, to make
5 sure that our discussion is organized and relevant and on
6 schedule. Secondly, make sure that we all understand what is
7 being said tonight, not only by the NRC but by all of you and
8 most importantly to make sure that everyone has a chance to
9 speak tonight who wants to engage in the discussion or to make
10 a statement.

11 The ground rules are pretty simple. We are going to
12 have an NRC presentation. It will be the only one to sort of
13 give you a background on this, and then we are going to go on
14 to you for discussion, and if you want to ask a question or
15 make a comment just raise your hand, and I will recognize you
16 and I will either bring you this talking stick, or you could
17 come up to one of these microphones that are up front here, and
18 then we will proceed with the discussion on that point.

19 I would just ask you to try to be concise in your
20 comments to make sure that we give everybody a chance to talk
21 tonight.

22 In terms of the agenda, at 7:15 we are going to have
23 Jack Parrott from the NRC Staff make a presentation, an
24 overview presentation, for you on the NRC's responsibilities in
25 regard to West Valley and specifically on the policy statement

1 and the criteria that are mentioned in the policy statement.

2 After that, we are going to have an initial
3 discussion mainly focusing on the responsibilities of the NRC
4 towards West Valley to make sure that everybody understands
5 that before we get into the major portion of tonight's
6 discussion with you which are issues related to the policy
7 statement itself, and after Jack's presentation I also would
8 like to just introduce several people in the audience who were
9 with some of the Government agencies, the tribal organizations,
10 citizen groups who are involved in the West Valley or are
11 concerned about the West Valley Project.

12 We really wanted to try to have a conversation, so to
13 speak, with all of you tonight and have a discussion of these
14 topics, but we realize that there may be people who want to
15 make a formal statement for the record, so we do have a 9:30
16 time slot for that, and it may be that you get your comments
17 out during the discussion sections on various issues, but we do
18 have time for statements.

19 I am just trying to get an idea of how many of you
20 have a formal statement that you might want to read into the
21 record tonight, just so we can figure out what the time
22 allotment should be.

23 Good -- looks like seven or eight people. I
24 think the time will work out on that.

25 I guess the last thing that I will say before we go

1 to Jack Parrott is that we realize that there are a lot of
2 issues of concern in regard to West Valley generally, and
3 tonight we want to focus on the NRC's responsibility.

4 There may be related issues that come up that we will
5 try to see if we or someone in the audience can provide you
6 with information on, but we do want to focus on NRC
7 responsibilities tonight and specifically the policy statement
8 will be broader than that.

9 In terms of the NRC Staff here with us tonight, we
10 brought a number of people to make sure that we could answer
11 all of your questions and if you have time after the meeting is
12 formally closed tonight to talk with them, they are here and
13 they will welcome talking with you.

14 Jack Parrott is going to be doing the presentation.
15 He is with the NRC Staff and he is the Project Manager for West
16 Valley, and he is really the focal point for all NRC activities
17 in regard to this project. Jack is a hydrogeologist by
18 training.

19 We also have another Technical Staff member, John
20 Contardi over here, who is an expert on the incidental waste
21 issue which we know is of concern to you. He is a chemical
22 engineer.

23 Kristina Banovac is right here. She is with the NRC
24 Technical Staff, and we did want to make sure that the NRC
25 managers who are responsible for this project came up to be

1 here tonight, and Bob Nelson, right here, is the Section Chief
2 for this project, and that section is within Larry Camper's
3 Branch and Larry Camper is the Branch Chief for that project.

4 We have someone here from our Office of General
5 Counsel in case there are legal issues, legal questions that
6 you might have -- Jim Lieberman from our Office of General
7 Counsel, and the NRC has an independent advisory committee
8 called the Advisory Committee on Nuclear Waste, and it is a
9 group of scientists that advise the Commission on various
10 issues, one of them being West Valley, and John Randall is here
11 from the Advisory Committee on Nuclear Waste.

12 As I mentioned, we will introduce some other people
13 in the audience and you will be introducing yourselves when we
14 go to the discussion period.

15 What I would like to do now is have Jack Parrott
16 present a brief presentation and then we will go to discussion.

17 MR. PARROTT: Hello. Thank you, Chip.

18 Many of you in the crowd may know me, but I see a lot
19 of new faces. I will introduce myself a little bit. As Chip
20 mentioned, I am Jack Parrott. I am the NRC's Project Manager
21 for the West Valley site. I have been doing that specific job
22 for about two and a half years now. I have been at the NRC for
23 10 years.

24 Shortly after I joined the agency I made my first
25 trip to West Valley in 1990 and so I have got somewhat of a

1 background in it even before I started as Project Manager.

2 First of all, I am glad to see the large turnout
3 tonight. The purpose of this meeting was to give public
4 discussion on the policy statement and obviously if nobody
5 shows up we can't discuss it, so it looks like we are going to
6 have a good discussion tonight.

7 I'll get started on my presentation. I've got 20
8 minutes to talk. I have got a lot of ground to cover, so let
9 me go ahead and get started.

10 Again, my presentation here is an overview of the
11 draft policy statement on the decommissioning criteria that we
12 have issued.

13 First of all, let me go into a little bit of history.
14 I'll try to be brief, but I thought I'd cover this for the
15 benefit of those who may not be totally aware of this.

16 The West Valley site was issued a license by at that
17 time the Atomic Energy Commission, and the licensees were a
18 company called NFS and the State of New York. This license was
19 issued in 1966. The purpose of this license, of operations at
20 the site, was to reprocess spent commercial nuclear fuel to
21 remove some of the uranium and plutonium that was in that
22 material for reuse.

23 The operations at the site produced some 600,000
24 gallons of high level waste, the liquid byproduct of the
25 reprocessing operation, and that is the primary focus of the

1 West Valley Demonstration Project is to take care of that
2 material.

3 The West Valley Demonstration Project Act was signed
4 in 1980 by President Carter. It did a number of things. Of
5 concern to NRC was that it put our license into abeyance and
6 permitted DOE to come onto the site and to take care of
7 essentially the high level waste that was remaining at the
8 site.

9 I have listed some of the primary DOE
10 responsibilities at the site. Rather than go through the list,
11 I will say in general their job is to manage the site and the
12 waste of the site, to remediate parts of the site, to ensure
13 the worker and public health and safety from the project. That
14 was partially NRC's role at the time it was licensed, but at
15 the time that the West Valley Demonstration Project Act was
16 signed, that became a DOE responsibility, also, to coordinate
17 with NRC because NRC was given certain responsibilities under
18 the Act as well.

19 I should say that our relationship to the site now is
20 somewhat different than it would be with a normal licensee. We
21 have a somewhat limited oversight function. We don't have the
22 same type of authority as well would have with a licensee.

23 The main thing though is that NRC was given, as you
24 can see here, some functions to perform in oversight, mainly to
25 ensure that there's some consistency with what we would

1 normally require at an NRC licensed site, while DOE is here,
2 because at some point in the future the license will come out
3 of abeyance and it will be once again, an NRC licensed site.

4 The other major player at the site, NYSERDA, the New
5 York State Energy, Research and Development authority has
6 responsibilities under the Act as well. They are the landlord
7 of the site. They are co-participating in a project, the West
8 Valley Demonstration Project, with DOE and they of course will
9 be eventually the licensee again, once the Act is -- when DOE
10 is done with their responsibilities under the Act.

11 I should also note that there's another regulator
12 besides NRC involved in the site, and that is the New York
13 State Department of Environmental Conservation. A lot of these
14 different agencies have a lot of the same acronyms but they
15 mean different things. They are going to talk later, but they
16 regulate various aspects of the site as well.

17 Okay. I will jump right into what is in the policy
18 statement. The Commission directed the Staff to issue the
19 draft policy statement that directs the decommissioning
20 criteria for the site, the NRC's license termination rule, and
21 let me talk about what that is.

22 The NRC's license termination rule was promulgated
23 recently, in 1997. It is a rulemaking that is meant to cover
24 all of NRC's licensees and NRC licenses everything from nuclear
25 power plants to individual users of small quantities of nuclear

1 material.

2 Because of the wide range of activities that NRC
3 licenses, and from previous experiences from decommissioning,
4 when this rulemaking was being worked on we knew that we would
5 need a range of options in decommissioning in order to be able
6 to fulfill all of the different types of possibilities that are
7 related to decommissioning a site.

8 What I have listed here is what is in the license
9 termination rule and also in the policy statement.

10 What this represents, these three bullets here, is a
11 range of dose-based criteria that NRC would like to see met at
12 a site that is undergoing decommissioning and that wants their
13 license terminated.

14 The first bullet there is unrestricted release. What
15 does that mean? Unrestricted release in this rule would -- NRC
16 has stipulated that the dose from that site that is released
17 for unrestricted use be no more than 25 millirem a year. That
18 number is well within what we consider and what we have
19 determined to be protective of public health and safety.

20 That is the limit. Certainly that the site can get
21 lower than that, and they need to evaluate that -- they should
22 and they need to do that if they can, but that is the limit for
23 what you can release.

24 Another option is a restricted release. The goal of
25 that one, again, is to keep doses again to under 25 millirem

1 per year, although in this situation that can be done through
2 not just cleaning up the site but also possibly restricting use
3 of the site through institutional controls.

4 Institutional controls can involve things like
5 property rights or uses of Government authority, all in order
6 to keep people from contacting any residual waste that might be
7 on a site that is released for restricted use.

8 Again I said the goal is to keep people from getting
9 a dose of over 25 millirem per year, however we recognize that
10 things like institutional controls are put in place by society.
11 There is a lot of uncertainty over long periods of time of what
12 society can fulfill in these roles, so the Commission in this
13 rule established a few caps to limit the dose from these sites
14 if institutional controls were lost at some time in the future,
15 and these range from 100 millirem per year to up to 500
16 millirem per year depending on what types of institutional
17 controls, who is the authority, and various details of the way
18 these sites are released.

19 There's also some stipulation in the rule for
20 alternative criteria. These were put in for difficult type of
21 sites where again the goal would be to meet 25 millirem per
22 year using restricted release, but recognizing that there may
23 be a situation at that type of a site where it may not be
24 feasible to totally contain the contamination in such a way or
25 restrict the site in such a way to keep the contamination,

1 perhaps for example for moving off the site, and this dose cap
2 again -- is a dose cap of 100 millirem per year.

3 Let me give you an example. If you had a site that
4 you had institutional controls on such that no one could get on
5 the site and contact the waste, yet there was waste, say, below
6 the surface and it could get into groundwater, and you could
7 not control, it was not feasible to control, say, the movement
8 of the groundwater off the site that this dose cap -- you would
9 have to clean up the site so that that dose would not be more
10 than 100 millirem a year as well.

11 I should point out that the analysis period for
12 determining what the dose limits are is a thousand years. This
13 is a period that was determined could be reasonably modelled
14 and where institutional controls might have a reasonable chance
15 of being in force.

16 Let me talk a little bit about the process that we
17 have gone through to come to what we have got today in the
18 draft policy statement.

19 A little over a year ago the NRC Staff wrote a report
20 to the Commissioners recognizing we have got this
21 responsibility to prescribe decommissioning criteria for the
22 West Valley site -- here are some possibilities for what we
23 could do. We wanted it again to be consistent with the way we
24 decommission all of our licensees so we simply stated we would
25 like to apply the license termination rule and the

1 decommissioning criteria.

2 There were also some other issues with waste at the
3 site that we addressed in that paper for consideration by the
4 Commission. One of them was applying incidental waste criteria
5 and using Part 61, which is the NRC's low level waste disposal,
6 commercial low level waste disposal regulations for, criteria
7 for onsite disposal of any of the waste produced from the
8 solidification of the high level waste that is going on.

9 I will talk a little bit more about incidental waste
10 and Part 61 a little later.

11 About a year ago, after this paper came out, the
12 Commission directed the Staff to have a public meeting down at
13 NRC's Headquarters in Rockville, Maryland. All of the
14 stakeholders were invited including DOE, NYSERDA, NYSHAP and
15 the Citizens Task Force, which is the citizens group here
16 involved at this site. It is made up of a number of different
17 people from the area with various interests.

18 Based on the results of what the Commission heard
19 from the stakeholders in this meeting, the Commission asked the
20 Staff to produce some supplemental information for them to
21 consider on how to apply the decommissioning criteria. We did
22 that in February of last year. We gave them that information
23 and in June of last year the Commission came out and required
24 the Staff to apply the policy statement with the license
25 termination rule in it.

1 This policy statement was issued in a draft form. It
2 was published in the Federal Register December 3rd, 1999. It
3 is what we are here to talk about tonight.

4 The Commission stipulated that the comment period be
5 a 60-day comment period and therefore the comment period would
6 end February 1st, 2000. What they have requested is for people
7 to submit written comments and also to hold a public meeting.
8 As Chip mentioned, we are transcribing it so that any issues
9 brought up in here will be considered as well, and will be
10 captured in writing.

11 So let me talk in a little bit more detail about what
12 is in the draft policy statement.

13 It has three components. As I mentioned, it directs
14 that the NRC license termination rule be used as the
15 decommissioning criteria for not only the Project, DOE's
16 project, but also for the rest of the site that NRC has a
17 license on or a license in abeyance on that is owned by
18 NYSERDA. It does not include one portion of the site, which is
19 called the State License Disposal Area, which as the name
20 implies, is licensed by the State of New York.

21 The time has come to gather the comments that you all
22 can give us on the policy statement, consider those, revise the
23 policy statement as needed and to finalize it with approval by
24 the Commission.

25 Then, as many of you may know, DOE and NYSERDA are

1 working on an environmental impact statement, an EIS, for the
2 closure and/or long-term management of the site. This
3 environmental impact statement would propose at some point a
4 preferred alternative. I should mention that a draft of this
5 has been issued, but at this point there is no preferred
6 alternative.

7 Once that is developed, NRC would look at it to see
8 that it supports the fact that this is in fact the preferred
9 alternative, and also that the preferred alternative meets the
10 NRC's license termination rule criteria.

11 NRC would then verify that the specific criteria that
12 is identified in the preferred alternative meets our license
13 termination rule and prescribe its use after NRC considers the
14 impacts in the EIS.

15 I should mention that the way we considered this in
16 prescribing the criteria was actually a two-step process. The
17 first was what we are trying to do with the policy statement
18 prescribed by the license termination rule, but as I mentioned,
19 it is a range of possibilities, of options that can be done, so
20 what specific option is chosen by the DOE and NYSERDA EIS will
21 be embodied in the preferred alternative, and that will be
22 reviewed by NRC and prescribed -- they will prescribe its use
23 after we can verify that it does meet the license termination
24 rule.

25 As I mentioned earlier, there are some other issues

1 involved with this site. They are identified either in the
2 West Valley Demonstration Project Act or through subsequent
3 involvement with NRC and DOE.

4 The first one was waste disposal requirements. I
5 think in the West Valley Demonstration Project Act there was
6 when that was promulgated back in 1980 I think the feeling was
7 at that time that any waste produced from the Project might be
8 disposed on site, but as the EIS was developed and the draft
9 came out, there's various possibilities of what could happen to
10 this waste, so the Commission decided to defer any
11 determination on what the requirements for waste disposal would
12 be until we could actually see a preferred alternative and know
13 what is going to happen, if it is going to go offsite -- to an
14 offsite licensed disposal area, we wouldn't need to stipulate
15 what the onsite disposal criteria would be, so that is not --
16 that is an issue that is not addressed in the policy statement.

17 Another one is incidental waste. What is incidental
18 waste? I put a brief definition here, but the high level waste
19 at the site and the spent fuel -- in NRC regulations high level
20 waste and spent fuel is a class of waste called "high level
21 waste" -- we have other types of waste that are "low level
22 waste" but high level waste as a class is defined not by the
23 concentration of radionuclides in that waste but by the source
24 of that material, primarily being spent fuel from reactors and
25 reprocessing the waste that is produced from reprocessing that

1 fuel.

2 MR. PARROTT: The SOA criteria is used to say when
3 high-level waste can be considered low-level waste.

4 The high-level waste, if you think about it, as I
5 mentioned, is defined on its source, and for example, at this
6 site, as you clean and clean, and reduce concentrations of the
7 high-level waste, you reduce the mass of the high-level waste
8 in the tank.

9 You get down to a point where the mass of the high-
10 level waste has been reduced so much that the original concerns
11 with what is high-level waste, really isn't -- the hazard to
12 the public health and safety is not the same as high-level
13 waste in the spent fuel in the tank, such that it would require
14 isolation in a deep geologic repository.

15 So we evaluate that on a case-by-case basis, and the
16 determination of that, the NRC is addressing at multiple sites.

17 And that criteria, while important at West Valley, is
18 not discussed in the policy statement. Although it is an issue
19 at West Valley, it will need to be decided at some point in the
20 future.

21 But again, it is not identified or dealt with in the
22 policy statement.

23 Now, again, we're interested in your comments on the
24 policy statement. This is the contact information for sending
25 anything, any written comments.

1 If you need any information, you can call me, e-mail
2 me. We have various documents that support the license, for
3 instance, the license determination rule that will give more
4 detail on what it is.

5 And I might also mention that any comments that you
6 send in, they don't have to be negative ones. If there is
7 something you like about the policy statement, please feel free
8 to reinforce that.

9 And that concludes my presentation. I'll turn it
10 back over to Chip for the next item on the agenda.

11 MR. CAMERON: Okay, thanks, Jack. We're going to get
12 into all of this in detail in a couple of minutes.

13 Jack mentioned that there were some other
14 governmental actors involved in this, and I just wanted to make
15 sure that you all knew who they were and heard from them, just
16 briefly, before we get into the discussion.

17 And I'm going to start off with the Department of
18 Energy, Barbara Mazeroski.

19 MS. MAZEROSKI: Well, my comments are going to be
20 comments of appreciation. My name is Barbara Mazeroski and I'm
21 the Director from the Department of Energy at the West Valley
22 Demonstration Project.

23 And I want to express my appreciation to the NRC for
24 having this public meeting here at West Valley that enables the
25 maximum amount of people, our citizens in our local community

1 that are interested in the outcome of the West Valley
2 Demonstration Project to give their views and their comments
3 here.

4 NRC is a cooperative agency under this process, but
5 they also have provided us valuable and invaluable oversight
6 for the project activities, through the startup of the
7 vitrification and through the vitrification activities, and we
8 certainly do appreciate NRC's role.

9 I also want to express my appreciation to you, to all
10 of you who have come out here today to express your views, your
11 positions, and your feelings here, an especially to the
12 Citizens Task Force.

13 We've got a Citizens Task Force that has been in
14 existence for over three years now, and they have devoted their
15 time and their energy and their efforts in learning and
16 understanding and educating themselves, and have provided the
17 Department of Energy and NYSERDA with some very valuable
18 recommendations that we take very, very seriously, and will do
19 our best to incorporate into the final outcome for the project.

20 And I want you to know that it is only through the
21 support of our community, through the teamwork that we have
22 with NYSERDA and our contractor and our other regulators, that
23 we've been able to make significant progress at the West Valley
24 Demonstration Project and vitrify in excess of 98 percent of
25 that high-level waste into a solid, stable form, which will be

1 disposed of eventually.

2 And so I thank you for coming. We value your
3 opinions, and so I look forward to this being a very
4 educational and efficient and effective meeting for us all.
5 Thank you.

6 MR. CAMERON: Okay, thank you, Barbara. Let's go
7 next to Paul Piciulo, who is with New York State Energy
8 Research and Development Authority.

9 MR. PICIULO: Thanks, Chip. Jack pretty much told
10 you who the Energy Authority is. I'm Paul Piciulo, the Program
11 Director here right at the site.

12 We have a dual role at West Valley. One is that we
13 own the site, the state owns the site, and NYSERDA owns title
14 to the site.

15 We're a partner with the Department of Energy in the
16 Demonstration Project, and to go with Barbara, they've done a
17 great job in the Demonstration Project thus far at solidifying
18 the bulk of the radioactivity that's in the high-level waste
19 tank, and managing the site very safely.

20 I think we're going to continue to go along that path
21 to be sure that the site is managed safely.

22 We also have individual responsibility for the state
23 license disposal area under Regulation with the EC, so that's
24 our piece of the responsibility here.

25 I, too, congratulate NRC in all they're doing. I

1 know they have had quite an open process to get to the license
2 termination role, and they need to continue that open process
3 with us here at the site and with the public in general.

4 They've been very involved with the Citizens Task
5 Force even before Part VII, and I think that's been really
6 great.

7 So, I'm going to kind of move on, because I'm really
8 interested in hearing what people's comments are. They're not
9 only good for NRC in establishing the criteria; they're also
10 very important to us at the site, to be sure that we can
11 continue to manage the site safely well into the future.

12 So, thank you, Chip.

13 MR. CAMERON: Thank you, Paul. Next, we're going to
14 go to Paul Merges with the New York State Department of
15 Environmental Conservation.

16 MR. MERGES: I'm Paul Merges, the Director of the
17 Bureau of Radiation and Hazardous Site Management with the
18 Department of Environmental Conservation.

19 With me tonight are Tim Rice, an Environmental
20 Radiation Specialist; and Jack Krajewski, an Environmental
21 Geologist in our Region 9 Office.

22 Under the Agreement States Program, the radiological
23 aspects of the state-licensed disposal area, which is a 15-acre
24 parcel of property within the DOE 200 acres, is under the
25 jurisdiction of New York State, in particular, the Department

1 of Environmental Conservation which issues permits for disposal
2 and maintenance of that facility under our Part 380
3 regulations, in the Department of Labor, which issues the
4 radioactive materials license to NYSERDA to possess the
5 material therein.

6 DEC also has non-radiological jurisdiction over the
7 entire site, both the SDA and the rest of the DOE operations at
8 the rest of the site, pursuant to the Environmental
9 Conversation Law and delegated to the U.S. Environmental
10 Protection Agency under RCRA, USEPA, the Clean Air Act, and
11 other federal and state environmental laws.

12 This jurisdiction includes for mixed hazardous and
13 radiological waste, and in addition, some radiological
14 jurisdiction over the DOE is evolving. USEPA has jurisdiction
15 over DOE radiological emissions, pursuant to the Clean Air Act,
16 and National Emission Standards for Hazardous Air Pollutants,
17 in particular, Subparts H and Q which apply to DOE facilities.

18 DEC is currently working with EPA to orderly transfer
19 this authority into the Department.

20 Finally, I just want to mention our goal in DEC is to
21 assure that the properties return to a productive use for the
22 site in an environmentally compatible manner. Thank you.

23 MR. CAMERON: Thank you very much, Paul. We also
24 have some other people who are going to be speaking tonight
25 during the discussion. Jeannette Eng is here from the

1 Environmental Protection Agency, and she's going to be offering
2 some comments on a couple of different issues tonight.

3 We also have Lana Redeye from the Seneca Nation right
4 here, and Lana is also going to be talking. Lana is on the
5 Citizens Task Force that Barbara mentioned.

6 I know that we have other members of the Citizens
7 Task Force here with us tonight. As they'll talking, they'll
8 introduce themselves to us.

9 I guess we should start with the -- are the roles of
10 the agencies, the role of the NRC clear to everybody? Does
11 anybody have any questions on that to start with? Or we can
12 just get right into the policy statement.

13 Diane?

14 MS. D'ARRIGO: Hi, I'm Diane D'Arrigo, from Buffalo
15 and now work with nuclear information and resource surveys in
16 Washington, D.C.

17 My question is perhaps regarding NRC and agreement
18 state authority over the state license disposal facility via
19 some of the statements in some of the documents indicate that
20 the NRC is only responsible for the portion of the site, other
21 than the state-licensed disposal area.

22 And they have no responsibility for that on the NRC's
23 part.

24 One of the things that we've always wanted here is a
25 comprehensive view of the whole site, not just segment and chop

1 up and look at different pieces under different regulatory
2 scenarios.

3 And so I wanted some kind of clarification about NRC
4 and the agreement state authority that comes from NRC, anyway,
5 so you indirectly have some role.

6 MR. CAMERON: Okay, thanks, Diane. Let's go to Jack
7 on that one, and Paul, you may want to offer something, too.

8 MR. PARROTT: Just that everyone knows what we're
9 talking about here, the state-licensed disposal area is in this
10 part of the site.

11 As I mentioned, the policy statement won't apply to
12 the state-licensed disposal area, however, the doses from that
13 -- in conjunction with that, the doses from the entire site
14 will be considered in the EIS that DOE and NYSERDA are working
15 on.

16 The EIS considers the entire site, and the criteria,
17 while the criteria won't be applied to the SDA, any doses that
18 come from the SDA and the rest of the site have to be
19 considered in conjunction.

20 We're in the process of working with DEC to clarify
21 how that will be done. But it will be done, and the goal is to
22 have, you know, protect the public and health and safety from
23 dosage from the entire site, not just pieces of the site.

24 So someone could get 25 millirem from the NRC-
25 licensed portion of the site, and 25 millirem, for instance,

1 from the state-licensed site, but that -- anyone gets no more
2 than the dose limit from the entire site.

3 MR. CAMERON: Okay, let's hear from Paul, and then
4 let me check back in with Diane and see if that answers her
5 question.

6 MR. MERGES: Well, when the state becomes an
7 agreement state, what happens is that the Nuclear Regulatory
8 Commission relinquishes authority to the state, unlike EPA,
9 which delegates RCRA authority or NYSHAP's authority to a
10 state.

11 In this case, New York became the fourth agreement
12 state. There are now 30 agreements states out of the 50 states
13 in the Union, and the vast majority that have materials
14 licensed are under agreement states.

15 Our programs are inspected by the Nuclear Regulatory
16 Commission every several years to assure they're adequate and
17 compatible with that of the Nuclear Regulatory Commission.

18 So while we're implementing their program in New York
19 State with the New York State in that sense, but we have
20 recognized the need to invest in issues like the total dose
21 associated with this site, including the SDA, versus the NRC-
22 licensed areas of the site, and to assure that that cumulative
23 dose would meet the dose criteria that are being established.

24 And that will be addressed in an MOU that the
25 Department is working on with the Nuclear Regulatory

1 Commission.

2 MR. CAMERON: Okay, so that there is an MOU under
3 development between the Department of Environmental
4 Conservation and the NRC.

5 Diane, do you have a followup?

6 MS. D'ARRIGO: Yes, maybe I didn't quite hear you,
7 but are you saying then that there could be 25 millirem from
8 the state-licensed site, under the New York State regulations
9 that are compatible with the NRC regs for commercial low-level
10 radioactive waste disposal, plus 25 more from the rest of the
11 site?

12 MR. PARROTT: No, the goal would be to keep any dose
13 to any person, either onsite or offsite, to 25 millirem from
14 the entire site, no matter what the source of that dose is.

15 MS. D'ARRIGO: The final disposition of both would
16 have to be considered when either is being considered?

17 MR. PARROTT: Right.

18 MS. D'ARRIGO: So that you can make those
19 projections?

20 MR. PARROTT: Right.

21 MR. CAMERON: Okay, great. Questions on
22 relationships between the agencies or the NRC role?

23 Okay, hold one second and let me see if there is
24 anything on these responsibility issues, and then we'll go to
25 you for the first question on the policy statement.

1 Yes, sir?

2 MR. RAUCH: My name is James Rauch, and I'm a member
3 of the West Valley Coalition.

4 Following up on what Diane asked, I'd like to know if
5 NRC is aware or believes there to be high-level waste in the
6 SDA, and then I'll have a followup to that.

7 My understand is that if there is high-level waste in
8 the SDA, that is strictly a federal responsibility.

9 I'm operating under the assumption that there is
10 high-level waste in the SDA, and, therefore, it's my opinion
11 that the NRC should be involved in the ESDA.

12 There are also other wastes in the SDA that Paul
13 Merges is aware he has no authority to regulate, and that was
14 brought out in the, and I'm referring to 11 (e)(2), uranium
15 byproduct materials.

16 MR. CAMERON: Okay, good questions on jurisdiction.
17 Jack, why don't you address the high-level waste issue, and,
18 Paul, do you want to talk at all to that point about fuse wrap
19 after?

20 All right, Jack, go ahead.

21 MR. PARROTT: I'm not aware of any high-level waste
22 that's in the SDA. I know that there is very highly
23 contaminated material in there.

24 But as I mentioned, high-level waste is defined at
25 the source, and I don't know that there is any waste from that

1 source in the SDA.

2 MR. RAUCH: Does the NRC know --

3 MR. CAMERON: Okay, let's then -- we didn't capture
4 that on the mike, but let me repeat it.

5 In other words, does the NRC know -- and I think
6 you're speaking for the NRC, not personally, but does the NRC
7 have any knowledge that the SDA contains high-level waste.

8
9 I'll ask Paul Merges the same question. Go ahead,
10 Jack.

11 MR. PARROTT: I've looked at a lot of West Valley
12 documents. I haven't seen that mentioned.

13 MR. CAMERON: Okay, Paul, do you want to say short
14 words on fuse wrap?

15 MR. MERGES: Well, I know what you're referring to
16 with regard to what's called high-level waste, and those are
17 transuranic wastes that are Class E wastes in the SDA. I
18 acknowledge that.

19 I realize what you're saying there, but it's not what
20 we call spent fuel or something like that, which is still a
21 different category of waste.

22 As far as the 11(e)(2) material, yes, but the
23 Department does not have regulatory authority. We've been told
24 that by the Nuclear Regulatory Commission, pursuant to their
25 authority, as they claim they don't have authority over this

1 issue as well, since the -- was passed, the Uranium Mill
2 Tailings Act of 1978.

3 I personally disagree with that NRC interpretation,
4 but it's something for the new Chairman to address.

5 MR. CAMERON: Let me clarify this for everybody, and
6 we'll move on. It think this is an important point.

7 We don't know of any -- NRC doesn't know of any high-
8 level waste. Paul, were you saying that there is 11(e)(2)
9 waste in the SDA?

10 MR. MERGES: I'm not aware of any.

11 MR. CAMERON: Okay. I think that wasn't clear. He's
12 not aware that there is any 11(e)(2) in there, which would make
13 it a federal responsibility.

14 Let's move on to Ray. Do you have a followup on
15 this?

16 MR. VAUGHN: Yes, Ray Vaughn, West Valley Coalition
17 and Citizens Task Force.

18 Jack, I'm interested in what your thoughts are on
19 high-level waste uncertainty. That's probably the best way to
20 put it with regard to the SDA.

21 There were some major efforts made for the
22 preparation of the 1996 draft EIS to try to get a better handle
23 of what had been disposed of in the SDA.

24 One study, I believe, was done by Pacific Northwest
25 Laboratories, to try to establish what typical waste streams

1 from that disposal area were.

2 And one thing that came out that was news to me, at
3 least, in the issuance of the draft EIS and the reports that
4 led up to it, was that roughly 30-35 percent of the source term
5 was from relatively classified, secret material that came from
6 Defense research and Defense activities.

7 And I think that material is now very well
8 characterized. There is some speculation -- and it is merely
9 speculation -- but there's no proof one way or the other yet,
10 that there may be some small Defense research reactors disposed
11 of in the SDA.

12 As far as I know that has not been resolved one way
13 or the other. But that rather large quantity, that 30-35
14 percent, could involve a lot of material that is not well
15 characterized at this point in time, so in the future it may
16 truly be high-level waste.

17 MR. PARROTT: I will say that I know that NYSERDA has
18 looked into, you know -- obviously, they want to try to
19 characterize what's in the SDA as much as they can, and they
20 have a database on what's in there.

21 Maybe I might ask them to address that.

22 MR. CAMERON: Does anybody want to say anything on
23 that?

24 MR. PICIULO: I think it becomes speculation, and
25 maybe that's not really the point for this evening's

1 discussion. But there has been discussion in the past about,
2 you know, perhaps there are snap reactors there, and as Paul
3 said, I think, transuranic wastes that are in there.

4 I don't think that it's any secret that there are
5 some Class E wastes in the SDA that would be the responsibility
6 of the Federal Government under today's regulations, but they
7 are disposed of there.

8 MR. CAMERON: Okay, Mr. Rauch, we'll be back to you.
9 I'm going to try to get some other people.

10 But also I want to ask the NRC: How will the NRC
11 address this comment about the uncertainty about high-level
12 waste in the evaluation of the policy statement?

13 Will we investigate that in evaluating the comment?

14 MR. PARROTT: Well, the policy statement was geared
15 toward the decommissioning criteria for the area of the site
16 that had been NRC-licensed. That does not include the SDA.

17 This gets a little bit out of what's in the policy
18 statement.

19 MR. CAMERON: But we'll note it as a comment.

20 MR. PARROTT: Yes.

21 MR. CAMERON: All right, okay.

22 MR. PARROTT: But the point of the policy statement
23 is to prescribe decommissioning criteria for the area of the
24 site that's licensed by or was licensed by NRC.

25 MR. CAMERON: Okay, any other comments on

1 jurisdictional responsibilities, before we go to, Carol for a
2 question on the policy statement?

3 We'll get back to you on that. Okay?

4 MR. RAUCH: All I wanted to point out was that the
5 draft EIS does identify reactor material. It's in Appendix G
6 of --

7 MR. CAMERON: Okay.

8 MR. RAUCH: In my opinion, that's high-level waste.

9 MR. CAMERON: Okay, thank you, Mr. Rauch.

10 Comment on jurisdictional? Go ahead?

11 MR. DIBBLE: I'm Bill Dibble. On the SDA, I think
12 the minimal funding on the project is 90/10, and I think the
13 records show that it is Defense waste in the SDA, and if that's
14 the case, the project should define what it is.

15 Also, if it's Defense Department waste, the procedure
16 should be more than 90 percent, maybe close to the total. The
17 scope of what you're doing should define the percentage of the
18 federal amount of cleanup of the SDA. The percentage should be
19 shown.

20 MR. CAMERON: Okay, thank you.

21 MR. PARROTT: Well, I'll say that at this point I
22 don't think there's been an attempt to determine the
23 responsibilities of -- one of the alternatives is to clean up
24 the SDA or to decommission the SDA.

25 I don't think there has been any attempt at this

1 point to determine who is responsible for it.

2 MR. DIBBLE: Well, you threw Defense waste in the
3 SDA, and I think it should clearly define what part of the
4 cleanup is federal, what percentage.

5 MR. PARROTT: Okay.

6 MR. CAMERON: Okay. I think we might as well move on
7 to the policy statement issues.

8 Carol?

9 MS. MONGERSON: Carol Mongerson, Coalition on West
10 Valley Nuclear Waste. This is just a question about the --
11 does NRC have an official policy, and official definition of
12 institutional control, and if so, where can it be found in the
13 regs or whatever, and if you could summarize it, please?

14 MR. PARROTT: Okay. Hold on a second. I don't know
15 that it's actually defined in the license termination rule, of
16 what institutional controls are.

17 We do have a guidance document. It's draft at this
18 point, but it is published. It's on our website and can be
19 obtained by anyone in the public.

20 This describes a lot of what different types of
21 institutional controls could be at a site. It probably is not
22 an exhaustive discussion of what every type of institutional
23 control could be.

24 If you'd get --

25 MS. MONGERSON: Draft Regulatory Guide DT406?

1 MR. PARROTT: Yes, that's it, that's it.

2 MS. MONGERSON: It doesn't have it.

3 MR. PARROTT: Okay, it probably describes in some
4 sense, what -- in a general sense, what institutional controls
5 are, but it does that by example, not -- it probably doesn't
6 give a definition of what institutional controls are, what the
7 limits are to that, that's true.

8 MS. MONGERSON: Is the answer no?

9 VOICE: Could you get her on a microphone?

10 MR. CAMERON: Yes. Carol, let me give you the mike,
11 so that you can ask a followup on that.

12 MS. MONGERSON: Is the answer, no, the NRC does not
13 have an official definition of institutional control?

14 MR. PARROTT: That's right.

15 MR. CAMERON: Any other comments on the institutional
16 control issue, while we're on that issue?

17 Larry Camper, do you want to clarify?

18 MR. CAMPER: The issue of institutional controls,
19 that's a good question and we appreciate that.

20 Let me say this: It's not found in the regulation.

21 The degree --

22 VOICE: Microphone.

23 MR. CAMPER: The underlying philosophy of
24 institutional controls is that there will be a governmental
25 jurisdiction that will assume responsibility for the site for a

1 protracted period of time, in an ongoing manner for perpetuity.

2 Institutional controls, the concept is that there
3 will be a responsible, cognizant jurisdictional, governmental
4 authority that will step up and assume responsibility and
5 oversee the site in an ongoing way.

6 Now, the question of institutional control is
7 something we are looking at very closely. We're having a lot
8 of discussions amongst ourselves already.

9 It's an issue that's being discussed in international
10 circles as well. There is a meeting coming up in Cordoba,
11 Spain, in March. One of the topics on that agenda is
12 institutional controls.

13 What we're now finding is that within the United
14 States and within other countries as well, we are now advancing
15 to the point in decommissioning of facilities under both
16 unrestricted and restricted release scenarios, that we're
17 gaining information about what is actually happening.

18 We have a theory; we have a concept. It's briefly
19 what I described, but we're now finding, in getting good data
20 back, is that emerging as a reality?

21 And as that happens, we will continue to assess it
22 and reexamine what it means. And if need be, based upon what
23 we're finding and what our colleagues in international circles
24 are finding, we will go back to the Commission and share those
25 findings.

1 If further steps are needed to define institutional
2 controls, we will suggest to the Commission that we do that,
3 and the Commission can take it under consideration.

4 MR. CAMERON: Let me just ask Carol if that answers
5 the question about whether something is an institutional
6 control or not. I gather -- okay.

7 How about other points on institutional controls,
8 since we're there? Jeannette?

9 This is Jeannette Eng from the Environmental
10 Protection Agency. Jeannette?

11 MS. ENG: Hi. I think that the issue of
12 institutional control, you know, we need to, particularly for
13 the local community, have a very clear idea of what that is.

14 I think that within the various agencies,
15 institutional control can include engineering and technical
16 barriers, and for some other agency that's just purely the
17 legal and deed restriction type of controls.

18 So I think it's important to be very clear when we
19 say institutional controls, what we each mean.

20 In EPA, institutional controls are really
21 supplemental. They're not treated equally, you know, with
22 looking at a legal action, looking at cleaning up a site.

23 So they're regarded as separate from treating waste
24 and doing the containment that's necessary. It's above and
25 beyond that that you would call institutional control.

1 That may be a philosophical difference, but it
2 certainly needs to be clarified.

3 MR. CAMERON: Thank you very much, Jeannette. And
4 just to make sure that everybody knows that context of
5 institutional controls, I would ask NRC staff to correct me if
6 I'm wrong on this.

7 One of the ways that the license termination rule can
8 be met is if institutional controls are found effective at a
9 site or various portions of the site.

10 So I think that's why this issue is important.

11 MR. MERGES: Just quickly, the Department of
12 Conservation rules and Part 382 defined an institutional
13 control, period. It would cover legally imposed requirements
14 on the site. It would not cover engineered barriers, but they
15 would cover the maintenance of engineered structures and things
16 like that. So I refer you to our Part 382 regulations for our
17 definition of that.

18 MR. CAMERON: Okay, thanks, Paul. Further comments
19 from the NRC on institutional controls? Larry Camper?

20 MR. CAMPER: There are two other points. I mentioned
21 the governmental jurisdiction. It can be a private entity, but
22 primarily thinking is that it would be a governmental entity,
23 but it could be a private entity with appropriate financial
24 resources, deed restrictions, and the like.

25 But let me also point out another fundamental tenet

1 of institutional controls in our rule. That is that these
2 institutional controls need to be legally enforceable.

3 They would be developed by public participatory
4 processes. And Part 20, Subpart E of our regulations points
5 that out.

6 MS. MONGERSON: They do include the barrier?

7 MR. CAMERON: Carol, let me repeat your question for
8 you. It is, do institutional controls include engineered
9 barriers? That's what I understand from this guide.

10 MR. CAMPER: Well, the answer is yes and no.

11 [Laughter.]

12 MR. CAMPER: Well, engineered barriers can exist for
13 purposes of containing any residual radioactive material that
14 might be on a given site. Or it might be used to keep water
15 from entering into a site where materials are being used.

16 I mean, engineered barriers can be a boundary, if you
17 will, for those purposes.

18 Engineered barriers can also be part of an
19 institutional control scenario, but our thinking is that an
20 engineered barrier, in and of itself, is not an institutional
21 control.

22 For example, a fence is an engineered barrier. It is
23 part of the institutional control process, but a fence without
24 some cognizant responsible authority, an institutional control
25 to maintain that fence, to replace it if it's torn down and so

1 forth, really, in and of itself, is not very useful.

2 You've got to have some kind of ongoing, legally
3 enforceable, named, responsible institutional control.

4 MR. CAMERON: Okay, we're going to go for some more
5 clarification to Bob Nelson of the NRC staff.

6 MR. NELSON: Let's see if I can shed some more light
7 on this? An engineered barrier is normally some constructed
8 wall or the cover on a site to prevent either migration of the
9 waste further into the environment, or to prevent water, either
10 groundwater or rain water from getting in to cause migration.

11 That's normally what an engineered barrier is. In
12 that context, it's not an institutional control.

13 Where institutional controls can become linked with
14 engineered barriers is where you rely on the institutional
15 control to maintain the barrier. Then there is a linkage.

16 For example, if you're relying on a government entity
17 or some other body to maintain that barrier, then that
18 maintenance becomes the institutional control, not the barrier
19 itself.

20 So there's the linkage. Usually when we think of
21 institutional controls, in my mind, I use the definition that
22 tells me what it is. The institution maintains the control?
23 Okay, some body, some county in the sense of making and
24 recording deed restrictions, a government entity supplying
25 resources to maintain a facility, to cut the grass if that's

1 necessary to demonstrate performance.

2 That's what we mean by institutional control. So
3 they can be linked, not necessarily.

4 Normally, an engineered barrier is simply a barrier
5 to prevent or minimize migration of the waste. Institutional
6 control is a control placed on the site by an institution,
7 normally to control access or use of the site.

8 MR. CAMERON: Thank you, Bob. Let's go to Ray and
9 then we'll go to this gentleman back here.

10 MR. VAUGHN: I would just like to -- Ray Vaughn,
11 again, Coalition on West Valley Nuclear Waste, Citizens Task
12 Force.

13 I would like to just explain why there is some
14 concern, I think, as to just what institutional controls
15 consisted of. Under restricted site release, there are some
16 very specific requirements on the cap dose value that needs to
17 be met.

18 And that's based on the hypothetical situation where
19 institutional controls are no longer in effect.

20 Now, it makes quite a difference whether suddenly the
21 people who are supposed to be repairing engineered barriers are
22 absent or whether the assumption is that instantly that
23 engineered barrier is breached.

24 There are certainly a number of facilities on the
25 site here. For example, there is the somehow re-engineered

1 plan for the high-level waste tank. Some of us believe that
2 the Department of Energy has performed a minor and maybe even a
3 major miracle in bringing the dose estimates down by a factor
4 of one million.

5 If you look at the draft EIS, those are huge doses,
6 if institutional controls are lost. They now claim to be able
7 to do it with a dose of one million times less.

8 But they do so by building a number of engineered
9 barriers, and the integrity of those barriers is in question
10 for a number of reasons, but knowing how to treat them under
11 the cap requirement is very important.

12 MR. CAMERON: Ray, let me get some verification from
13 Bob Nelson on your point. Bob, could you address what Ray just
14 said?

15 MR. NELSON: I'll try. Bob Nelson, NRC.

16 I think your question gets back to this kind of
17 linkage I was trying to make. If you're talking about a cap,
18 some engineered cap, whether it be a concrete cap or some
19 composite -- no?

20 MR. VAUGHN: I'm using the term cap on the dose.

21 MR. NELSON: On the dose model?

22 MR. VAUGHN: Yes.

23 MR. NELSON: Okay. Then to look at the cap, you have
24 to assume the institutional control has failed and is no longer
25 in effect.

1 You then go back and look at your engineered barrier
2 performance and determine when that engineered barrier
3 performance would fail, based on no more maintenance, no more
4 control.

5 So you do your dose assessment based on some period
6 of performance, of satisfactory performance of that engineered
7 barrier, followed by a failure of performance because the act
8 of maintenance is no longer there.

9 Did I answer your question?

10 MR. VAUGHN: I understand that that's one of two
11 possible views, but a clearer definition -- really, I haven't
12 got a definition of institutional control that would eliminate
13 this slight uncertainty that remains.

14 I understand what your opinion is, but it is not
15 clear from reading the requirements set in law.

16 MR. CAMERON: Okay, Bob, do you want to agree with
17 that?

18 MR. NELSON: I will agree with you that our
19 definition of institutional controls is not clear, and that's
20 the message we're getting, and I think we understand that.

21 MR. CAMPER: Let me try. I mentioned that an
22 institutional control was something that we're now progressing
23 on. We're seeing what's emerging.

24 I try to simply state the concept, and as we
25 encounter these situations, we evaluate them. There will be

1 lessons learned, including what's going on here.

2 Now, let me -- just bear with me. For those of you
3 who have not read draft Reg Guide 4006, I know this is not your
4 -- it's either this or Tom Clancey, and I know who wins.

5 But for those of you who have not had the benefit of
6 reading this, let me just read a couple of things to you, if
7 you'll bear with me.

8 Under Section 4.1 in the draft guide 4006 that was
9 mentioned, entitled Legally Enforceable Institutional Controls,
10 we have two pertinent paragraphs, I think, that at least will
11 share with you the general tenets of institutional controls as
12 we now believe them to be.

13 "This section describes the legally enforceable
14 institutional controls that can be used to meet the
15 requirements of 10 CFR 20.4203(b). Institutional controls may
16 be based on property rights or on a governments's sovereign or
17 police powers.

18 At some sites, institutional controls may include
19 physical conclusions, for example, fences, markers, earthen
20 covers, radiological monitoring, and the maintenance of those
21 controls.

22 Physical controls alone do not meet the requirement
23 in 10 CFR 20.4203(b) for legally enforceable institutional
24 controls because they lack a mechanism for legal enforcement.

25 Physical controls and their maintenance can be used

1 to meet the requirement in 10 CFR 20.4203(b), only when they
2 are used in combination with an instrument that permits legal
3 enforcement of a physical control."

4 So that, in more definitive terms, summarizes the
5 point that I was trying to make a moment ago in the example of
6 a fence. A fence alone is not sufficient; there has to be an
7 enforceable document in place that will ensure that there is a
8 responsible, named entity that functions as an institutional
9 control to maintain that fence in perpetuity.

10 MR. CAMERON: Okay, thank you, Larry. If people want
11 to get a copy of this Reg Guide, how do they go about doing
12 that, Jack?

13 MR. PARROTT: Again, you can contact me for the
14 information I had up here earlier. Also, if you have access to
15 the Internet, a complete text of it is available on our
16 website.

17 MR. CAMERON: Okay, thank you. We're going to go to
18 this gentleman, and then we'll go up here.

19 MR. ZIMMERMAN: I'm Abel Zimmerman, and my property
20 joins the site. Now, I was wondering if the injection well
21 that's on the Kowalski property which was not documented, was
22 part of the site at one time. I mean, it wasn't there, but it
23 was there.

24 Now, did they really go as far as they wanted to with
25 that well, or did they just drill it a short distance?

1 All kinds of equipment was there when they were doing
2 it. It was there for two or three weeks.

3 Now, I would like to know if it's been tested lately
4 to see if there is any of the radioactive material that you
5 would normally put into an injection well.

6 MR. CAMERON: Do we have an answer for Mr. Zimmerman
7 on that question?

8 MR. PARROTT: That injection well was used in the
9 late 60s and early 70s for at testing program that was done by
10 Oak Ridge National Laboratories.

11 At the time, the only material that was put down that
12 well was a very short-lived zirconium, which is a very short-
13 lived tracer. So there was a study that was done, think, by
14 Davis and Moore, in the late 80s when they looked that well,
15 and didn't find any residual trace material from that testing
16 program.

17 MR. ZIMMERMAN: At first there was no well there.
18 There was no papers or anything on it when I first brought it
19 up, because -- now, is that really the right definition of that
20 well, or is there other things that went on there that we
21 aren't being told?

22 Now, I think that well should be examined thoroughly
23 by responsible people to make sure that it isn't a dangerous
24 thing that's sitting out there.

25 MR. CAMERON: Okay, thanks, Mr. Zimmerman. I'm going

1 to ask if you could talk to Mr. Zimmerman specifically about
2 this well before he leaves tonight?

3 MR. PARROTT: Yes.

4 MR. CAMERON: Okay. He's going to talk to you about
5 that.

6 Mr. Rauch?

7 MR. RAUCH: Jim Rauch, again, with the West Valley
8 Coalition. I would like to get Dr. Merges's opinion about what
9 I'm about to say, because I think he's very familiar with
10 failure of institutional control in its ultimate form, which is
11 licensing.

12 I'm referring again to the fuse -- Tanawanda. The --
13 at the Tanawanda site became the method of this simply because
14 of the failure of licensing.

15 It was NRC's and NRC's predecessor agencies whose
16 responsibility caused that failure which has resulted in a huge
17 cleanup.

18 Now, my opinion of institutional controls is that
19 this is a real slippery slope we're on here, and we're sliding
20 into a weaker and weaker position.

21 When 10 CFR 61 was promulgated, the low-level waste
22 disposal regulations, that rulemaking was subject to broad,
23 wide, large public involvement.

24 The public expressed its opinion that institutional
25 controls could not be relied on for any length of time. The

1 rule incorporated a 100-year period as the maximum amount of
2 time that institutional controls could be relied on for low-
3 level waste disposal.

4 I wonder why now NRC -- and I'd like Dr. Merges's
5 comments -- why NRC has seen fit to extend that to 1,000 years
6 with minimal public input?

7 MR. CAMERON: And this slippery slope is the
8 extension from 100 to 1,000 years, basically. Okay, let me go
9 to the NRC for any comments they may have on this point, and
10 we'll see if Paul wants to say anything.

11 Keep in mind, this is a draft policy statement, so
12 all of these comments that you're making will be evaluated by
13 the NRC in deciding to finalize that policy statement.

14 But does anybody want to comment on Mr. Rauch's
15 point?

16 MR. PARROTT: Well, the 1,000-year period that you're
17 talking about in the license termination rule is the period
18 where, again, there is a dose standard, that the modeling be
19 done to determine what the doses are.

20 There isn't -- it's assumed that if there are
21 institutional controls at a site to meet the dose cap, the
22 assumption is that they fail essentially immediately after the
23 license is released. But anytime in that thousand years, it's
24 assumed that they fail.

25 And that's why that dose cap is in there, for

1 restricted release. There isn't an assumption that the
2 institutional controls last for a thousand years.

3 MR. CAMERON: Mr. Rauch, let's get Paul Merges, and
4 then we'll go back to you for a followup, okay? Paul?

5 MR. MERGES: I have two different things here: One
6 is that the SDA is not a Part 61 site. There is material in
7 the SDA that would not be allowed into a Part 61 low-level
8 waste site, so there is a difference, and I want to remind you
9 of that.

10 And as you pointed out, for example, a snap reactor
11 is in there, and that would not be allowed in a low-level waste
12 site, as defined by the Low-Level Waste Policy Act and the Part
13 61 regulations that were implemented in the 1980s. This stuff
14 was put in there in the 1960s.

15 The other thing is that there is a difference between
16 institutional controls and regulatory authority. And basically
17 NRC's statement on 11(e)(2) and the material has to do with
18 their belief that we do not have regulatory authority by law,
19 and it's a legal issue as opposed to a legal mechanism which an
20 institutional control would be such as a deed restriction on a
21 particular site.

22 MR. CAMERON: Mr. Rauch, I'm going to have ask you to
23 speak into this microphone. We're going to give you a quick
24 followup on this, and then we'll go on to some other people.

25 MR. RAUCH: Well, first I guess I understand your

1 comment to be that NRC's view now is that institutional
2 controls can be applied indefinitely, whatever the period is.

3 I specifically asked NRC to respond to the public
4 expression in 10 CFR 61 that 100 years be the maximum, up
5 front, a priori.

6 MR. PARROTT: Let me restate it. I'm sorry if I
7 misinterpreted it. But when the -- in terms of the license
8 termination rule for this site, NRC recognized that there is a
9 tremendous amount of uncertainty about what is going to happen
10 in the future, especially with relation to institutional
11 controls.

12 We don't allow indefinite or reliance on
13 institutional controls to maintain doses under sites that are
14 decommissioned.

15 We know that there is this tremendous amount of
16 uncertainty, and that's why we -- in the restricted release
17 situation, when it would be under institutional controls, the
18 goal is that they would last as long as possible, but
19 recognizing that we can't verify that, we set an additional cap
20 on dose that when they break down, we have to assume that they
21 will, that additional dose cap is what protects public health
22 and safety.

23 But there isn't, there really isn't an assumption
24 that we can rely on the institutional controls.

25 MR. RAUCH: What I would like Dr. Merges to comment

1 on is his view of NRC's misapplication of its licensing
2 requirements at Tanawanda. What happened, for people who
3 don't know what happened at the Tanawanda Manhattan project
4 site, is, there were wastes that basically the Federal
5 Government did not license.

6 They turned wastes onto property that was owned by
7 the Federal Government, and turned it back to a private
8 ownership. And that private ownership then spread the waste
9 around the site so that now we have a horrendous problem.

10 The Federal Government abdicated its responsibility
11 to maintain a licensed control. And I'd like Dr. Merges's
12 opinion on that, vis a vis this current discussion.

13 MR. CAMERON: Okay, before Paul, while you're
14 thinking of what you want to say to that -- and then I think we
15 need to see if there are other issues here that people want to
16 bring up.

17 I'd like to at least get Larry Camper on for one
18 clarification.

19 MR. CAMPER: Yes, I have two points. I wanted to
20 point out on the institutional control that it's not that it
21 allows a thousand years; it says that licensees -- and in this
22 consideration, we pointed out that licensees cannot know with
23 virtual certainty, what institutional controls will be and how
24 long they will be there.

25 But you are to design your institutional controls for

1 a thousand years. And that coincides with the dose analyses
2 calculations as an objective for institutional controls.

3 And the license termination rule, of course, was
4 published for public comment, and really there were minimum
5 comments on the rule, and there were no particular negative
6 objections to the idea of having the design objective of a
7 thousand years for institutional controls.

8 MR. CAMERON: Okay, let's see if Paul Merges has
9 anything to say, and then I think we need to move on to some
10 other issues, to make sure that we use our time.

11 MR. MERGES: I'd like to point out that the sites in
12 Tanawanda don't have anything to do with this particular issue
13 tonight. However, while I may agree with you on your
14 statements about what I think NRC's jurisdiction is, they will
15 not necessary agree with you, and I want to remind you that the
16 current Chairman of the Nuclear Regulatory Commission, when he
17 represented Kerr McGee in the West Chicago case in 1990 -- and
18 this man's name is Richard Meserve, advocated exactly the same
19 position you're advocating tonight, so I think you ought to
20 address a letter directly to him.

21 As I said, I'm not a lawyer, but I happen to agree
22 that --

23 MR. RAUCH: Does the vagaries of personality --

24 MR. CAMERON: You have to speak into the mike, and we
25 have --

1 MR. MERGES: What you're really asking for is a court
2 interpretation, a definitive court interpretation. I would
3 like to see it, too.

4 MR. CAMERON: All right, I think that the point that
5 is being made about Tanawanda, obviously -- Mr. Rauch, if you
6 want to have a conversation with Paul, do it offline.

7 But I think your point is not to focus on Tanawanda,
8 but there is some lesson to be learned there in terms of the
9 use of institutional control.

10 I think people have gotten that. Other --

11 MR. PARROTT: Relating back to West Valley, that
12 situation that Mr. Rauch described at Tanawanda, I mean, that's
13 why we set up the license termination rule the way it is, to
14 avoid that. If the license termination rule had been applied
15 at that site, if institutional controls had broken down,
16 private entity took over the site, spread the waste around,
17 that would have been a dose, and would never have happened.

18 I assume we would have modeled it such that we would
19 have looked at that possibility and said, no, you know, you
20 can't be released, and it wouldn't have happened.

21 It was situations like that that went into the basis
22 for the license termination rule.

23 MR. CAMERON: Okay, thank you. Let's go -- Diane, do
24 you have a comment?

25 MS. D'ARRIGO: I'd just like to disagree with Larry

1 Camper who just said that there weren't very many comments on
2 the license termination rule.

3 There was an enhanced participatory rulemaking which
4 members of the public participated in about five or so meetings
5 around the country. And a lot of public input went into those,
6 and that public input was essentially ignored by the NRC.

7 And the rule was finalized, and at this point, I
8 think it's not protective enough. It's the rock bottom that
9 should apply here at West Valley.

10 But there are a lot of loopholes in this regulation
11 that are not protective enough. At the rock bottom minimum,
12 that should be applicable here, and we should be looking at
13 greater protections than that standard for this site.

14 MR. CAMERON: Thank you, Diane. I would say that the
15 comments are part of the record on the rule, and the summaries
16 of the workshops are there, too, for people to see.

17 Did you want to say something?

18 MR. CAMPER: I wasn't implying that there weren't any
19 comments on the rule. What I was speaking to was, there were
20 not many comments specifically on the 1,000-year design
21 objective for institutional controls. That was what we were
22 talking about at the moment.

23 Now, I agree with you that there were many comments
24 on the rule. And there was an enhanced process, yes.

25 MR. CAMERON: Okay, thank you. Others? Okay, we've

1 talked a lot about institutional controls, and I think probably
2 we're ready to move on to other issues here.

3 Jeannette, do you want to put another issue on the
4 table for us?

5 MS. ENG: In fact, the institutional control
6 discussion is probably a good segue, because there was
7 reference made to the 100-millirem and 500-millirem number.
8 And from EPA's perspective, those numbers are not protective,
9 but above and beyond that, we've had in the past, comments to
10 the NRC on the 25-millirem number.

11 And if you look at the discussion on the cleanup
12 levels, and if you look at the 25-millirem number, year-
13 in/year-out, over a lifetime, that would be outside of the EPA
14 risk range that we use when we look at Superfund, when we look
15 at EPA cleanups under the Superfund Program.

16 But in discussions that NRC and EPA have had, the NRC
17 has said that when it comes to most or many of the sites that
18 they're going to terminate license under the license
19 termination rule, that if you -- if the 25 millirem with the
20 application of ALARA would be trying to get the doses to as low
21 as reasonably achievable.

22 They probably could get within the EPA risk range.
23 But I think that at the West Valley site, this is really
24 difficult to do, and there is certainly more effort that is
25 going to be needed for that.

1 And I would hope that the DOE in response to or in
2 reaction to looking at complying with the NRC's license
3 termination rules, that they keep in mind that once they
4 terminate the license, the EPA view of what is an acceptable --
5 whether the site is safe or not, that they should keep that in
6 mind that what we hope to look at is to meet the EPA
7 regulation, that the excess cancer risk be less than the
8 1:10,000.

9 MR. CAMERON: Thanks, Jeannette. I think that the
10 cleanup levels are something that would be useful to explore,
11 including differences between the EPA viewpoint on it.

12 Jack, I don't remember if you covered it, but the
13 basis for the NRC's establishing the cleanup level? Maybe that
14 would be useful for people to know, and then we can ask if
15 there are further questions on the point that Jeannette raised.

16 Or, if Jack's not the right person, Bob, whomever?
17 Bob? Bob Nelson.

18 MR. NELSON: Bob Nelson from the NRC. The 25-
19 millirem dose limit for unrestricted use in the license
20 termination rule, came about from two basic considerations:
21 The first was -- first of all, we considered 100 millirem per
22 year as our public dose limit, and considered that to be a safe
23 level, but we realized that people can be exposed from multiple
24 sources.

25 This is a concept that not only we hold, but is also

1 encouraged by the international organizations as well. So we
2 felt that we needed to fractionate or take a fraction of the
3 100-millirem limit to account for multiple exposures.

4 So, the first question was, what's the appropriate
5 fraction, or how many sites could conceivably be thought to be
6 exposed to simultaneously?

7 Well, four was chosen, and is, we felt, conservative,
8 in that very few people would be simultaneously exposed to four
9 sites, each contributing 25 millirem per year. It would be
10 highly unlikely that that would occur, but four was a good
11 number, and it was chosen.

12 But then you also have to look at what can be
13 achieved from a cost/benefit standpoint, so that's the second
14 portion of the, could you go lower than 25?

15 Is it reasonable, after you consider this
16 partitioning effect of the multiple exposure scenario, is it
17 reasonable to get below 25 from a cost-benefit standpoint?

18 These are the two aspects that were looked in the
19 generic environmental impact statement for the rule, and the in
20 the Commission, generally.

21 It basically concluded that there was not a
22 significant cost benefit of requiring doses to be below or
23 establishing a dose limit below 25.

24 We did, however, put that on a standardized basis,
25 but we did put it in an ALARA requirement on the 25. That

1 meant that 25 is okay on a general basis, but for each site,
2 you have to demonstrate that that is as low as reasonably
3 achievable.

4 So 25 isn't a fixed number, as Ms. Eng said. You
5 have to look at -- start at 25, you do a cost/benefit analysis,
6 you have to demonstrate that whatever number you choose, 25 or
7 below, is a as low as reasonably achievable.

8 MR. CAMERON: Okay, thanks for that clarification,
9 Bob. Are there other comments on the issue of cleanup levels?

10 [No response.]

11 MR. CAMERON: Okay, let's go to Carolyn. We're going
12 to have to, all of us, try to speak up, and speak into this
13 mike, so that our stenographer can get this.

14 Carol?

15 MS. MONGERSON: Now, this is a question about the
16 restricted and unrestricted sites. Is that appropriate right
17 now?

18 MR. CAMERON: Go ahead.

19 MS. MONGERSON: And I'm going to read it, because it
20 took me a long time to figure out how to understand this and
21 express this. It's just one sentence.

22 The terminology of the criteria for the license
23 termination is unclear on one point. If a site meets Section
24 1402, the license can be terminated, and it can be released for
25 unrestricted use.

1 Under 1403, criteria are set for license termination
2 under restricted conditions. If these conditions are met and
3 the license is terminated, is the site released for
4 unrestricted use, or does the word, conditions, apply to the
5 license?

6 Does it apply to the license or to the site use or
7 both?

8 MR. CAMERON: Thanks, Carol. We're going to go up to
9 Bob Nelson to answer that question for you. Bob?

10 MR. NELSON: The license would be terminated under
11 1403. The restricted use would be placed on the conditions of
12 use of the site.

13 So the license would no longer exist, but there would
14 have to be institutional controls in effect that would limit
15 the uses of the site to assure that the dose limit was
16 achieved.

17 Does that answer your question?

18 MS. MONGERSON: No.

19 MR. CAMERON: Okay, let's see if we can clarify this.
20 Carol?

21 MS. MONGERSON: Are the conditions put on the
22 termination, on the conditions that must be met before
23 termination, or are they conditions on the use of the site
24 after termination?

25 MR. NELSON: It's not clear to me. If it's clear to

1 somebody else, go ahead.

2 MR. LIEBERMAN: I'm Jim Lieberman. Let me try to
3 answer that.

4 When the license is terminated under a restricted use
5 scenario, before we would terminate the license, we would be
6 satisfied that the restrictive conditions are enforceable, are
7 in a deed, are in a zoning restriction, are in a mechanism that
8 once NRC no longer oversees a site, those restrictions would
9 continue.

10 There is also a provision in the regulation that,
11 should, for some reason over time, the dose levels not be as
12 expected, such that, for example, there's more than 10
13 millirems, NRC has a provision to be able to reinstate its
14 authority to assure that the site is properly controlled.

15 I don't know if that helps or not.

16 MR. CAMERON: Carol, does giving this one more try,
17 does that help?

18 MS. MONGERSON: I'll ponder it.

19 [Laughter.]

20 MR. CAMERON: Okay, and that brings up the issue that
21 there will be a transcript from this meeting. And those of you
22 who want to read what was said and ponder that, we can make the
23 transcript available. It will be on the NRC website.

24 How else could people get a copy of the transcript?

25 MR. PARROTT: Contact me, and I can get you a copy of

1 it.

2 MR. CAMERON: All right. I think I'm going to ask
3 Paul Merges and Jim Rauch to step outside now.

4 [Laughter.]

5 MR. CAMERON: We'll go to you, Paul, and then over to
6 Jim. We'll see who else -- yes, sir?

7 MR. DIBBLE: This comment has to do with control.
8 Looking at the CTF, on the makeup of that CTF, the--, the SNI,
9 Fire Department, County Health, state legislative reps, and do
10 we have assurance that those titles will not become the
11 institutional control?

12 MR. CAMERON: Your name, for the transcript?

13 MR. DIBBLE: Bill Dibble.

14 MR. CAMERON: Bill Dibble, all right. Jack, did you
15 get that?

16 MR. PARROTT: Let me try to maybe try to clarify your
17 question. Well, the members of the CTF?

18 MR. DIBBLE: The CTF, we know who they are, but these
19 come from different titles around the overall community. And
20 would those titles become the institutional control?

21 MR. PARROTT: If you mean, will the--well, no, I
22 mean, it would be impossible to speculate who would enforce the
23 institutional controls.

24 MR. CAMERON: Okay, a quick followup, sir?

25 MR. DIBBLE: The question was not who, but those

1 positions.

2 MR. PARROTT: Oh, would the CTF members become the
3 institutional controlling body? That is a possibility.

4 I mean, there is--I don't know what--the termination
5 issue of control, as we mentioned earlier, isn't defined. It
6 could be a lot of different possibilities.

7 That's one I hadn't thought of, but--

8 MR. CAMERON: Okay, let's go to Paul Merges.

9 MR. MERGES: Carol, I want to elaborate on this
10 termination of an NRC license. When they terminate a license,
11 that means that that piece of property falls into the
12 jurisdiction of the agreement states program.

13 It's been our position for years that the agreement
14 states have to be factored into any decision that the NRC has
15 on trying to terminate a license for a nuclear power plant or a
16 research reactor, or, in this case, the West Valley site.

17 So, we expect NRC to be factoring the State of New
18 York into DEC as part of the agreement state program, and to
19 the decision of how institutional controls will be imposed, if
20 that is appropriate for a license termination.

21 MR. CAMERON: Okay, thank you, Paul. Your point is
22 that you think the agreement states should be consulted within
23 any determination on institutional controls, all right.

24 MR. MERGES: Termination of the license. If you're
25 going to maintain the license--

1 MR. CAMERON: Right, Larry, do you want to comment on
2 that?

3 MR. CAMPER: Let me just state the obvious: Clearly,
4 that will be the case; we will be consulting the state and
5 local governments, for developing institutional controls at
6 this site, or, for that matter, any other similar type of site.

7 MR. CAMERON: Okay, anybody here have an issue that
8 they want to raise at this point? Yes, sir, let's go to you.
9 Just state your name, and please speak into the mike for the
10 stenographer.

11 MR. CHAMBERS: Glenn Chambers. I'd just like to
12 know, just what is going on over there? What are you doing in
13 the way of cleaning up stuff?

14 How long is it going to take? And is there any
15 foreseeable time when all of this thing could come to an end
16 and bring this down into the ordinary working terms now? Thank
17 you.

18 MR. CAMERON: Jack, an overview sort of answer to
19 that?

20 MR. PARROTT: Actually, let me throw this question
21 over to DOE to get maybe a brief -- give everyone a brief idea
22 of what the status of that is.

23 MR. CAMERON: All right, good. Carol, you might as
24 well use that mike up there, I guess, or Barbara.

25 MS. MAZEROSKI: Barbara Mazeroski, Director, West

1 Valley Demonstration Project.

2 What is going on at the West Valley Demonstration
3 Project is that we have designed, constructed, tested, pre-
4 treated, and vitrified over 98 percent of the high-level waste
5 that was in underground tanks, which formed the basis for the
6 West Valley Demonstration Project Act.

7 Right now, what we're doing is, we are cleaning the
8 bottom of those tanks, what we call the tank heel, and we are
9 devising all kinds of new and innovative technologies, arms
10 that go down into the tank, with sprays on them, with cameras,
11 so that we can effectively remove as much waste out of that
12 tank as is technically possible.

13 In addition to that, we maintain a safe site. Our
14 priority is safety. We don't do any work unless we do it
15 safely.

16 And we're working with NYSERDA in developing an EIS
17 process that will ultimately identify what a preferred
18 alternative is for closure of the site, and also the process
19 will eventually get us to a record of decision for site
20 closure.

21 And the NRC, as a cooperating agency, has the
22 responsibility to prescribe the criteria for us in coming to a
23 decision.

24 So that's what's going on at the site. How long will
25 this take us? We're nearly at the end of our vitrification

1 activities. We're at the tank-heel cleaning, so the
2 vitrification process isn't going to go on much longer, maybe a
3 year, maybe a little over a year.

4 We are trying to get ourselves in the position to
5 have as much waste out of the tank as we need to have, to close
6 the tanks. And we want to do this within the life of the
7 melter.

8 And the life of the melter is, conservatively, maybe
9 5-7 years. We're in the fifth year of melter life. We want to
10 be in a position to have those tanks clean enough that we
11 decide when the melter is finished.

12 The EIS process, we're working with it through
13 NYSERDA. We're working through it with our Citizens Task
14 Force. We need to move that process along. We need to get to
15 a record of decision.

16 I can't tell you how long that's going to take, but
17 we are trying to move it along as quickly as we can. Under
18 some scenarios, we could have a record of decision maybe in a
19 couple of years.

20 But in the meantime, there is work that's being done
21 that we know that we have to do, regardless of what the record
22 of decision is going to say.

23 We are removing waste from the site. We moved over
24 36,000 cubic feet of low-level waste from the site to a
25 commercial disposal in Utah, Envirocare. So we are removing

1 waste off the site, we are doing these things.

2 We've installed a permeable pilot test treatment wall
3 to help us control the groundwater pump, and what we call the
4 North Plateau Groundwater Pump, so we're doing those sorts of
5 activities.

6 And we are actively pursuing removing waste from the
7 cells. We have what we call the head end cells in the plant.
8 These are called head end cells because that was the front of
9 the processing activity when NSF had it.

10 We are going into those cells. We're preparing
11 equipment, and manipulators and arms and cranes to allow us to
12 get into those cells, remove the high-activity of waste from
13 those cells.

14 These are the kinds of activities that we need to do,
15 regardless of how we're going to close the site.

16 And so that's what's going on. We have stable
17 funding which allows us to make progress onsite, and so with
18 the stable funding, and with the cooperation of NYSERDA and the
19 other regulatory members, we can continue to make progress.

20 Have I answered your question?

21 MR. CHAMBERS: A lot of it.

22 MR. CAMERON: Okay, Barbara, one final point: If
23 people in the community want to be kept informed on a periodic
24 basis of what's going on with your program, what's the best way
25 for them to do that?

1 MS. MAZEROSKI: We have public meeting, and ever
2 public quarterly meeting includes a status of project
3 activities. It tells you what we're doing, where we're going,
4 what we're thinking of, and it gives you an EIS status.

5 When is the next quarterly public meeting?

6 VOICE: The second week in February.

7 MS. MAZEROSKI: The second week in February. The
8 public is always invited, and welcome.

9 MR. CAMERON: Okay, thank you very much, Barbara.

10 Yes, sir?

11 MR. ABRAHAM: Gary Abraham, Concerned Citizens of
12 Chattaraugus County. Can you give us some idea of how much
13 waste is outside the Demonstration Project, beyond the 98
14 percent of the waste that's inside the project that you just
15 talked about?

16 Isn't there significant amounts of hazardous and
17 nuclear waste outside the Demonstration Project?

18 MR. CAMERON: I don't want to take us too far afield
19 from what we're here for, which is the NRC responsibilities,
20 but do you have anything quick to say on that?

21 MS. MAZEROSKI: Are you talking about the disposal
22 areas?

23 MR. ABRAHAM: Yes.

24 MS. MAZEROSKI: Somebody will have to help me with
25 the quantity that's in the disposal areas.

1 MR. SULLIVAN: Are you looking for a particular
2 quantity, or in general?

3 MR. ABRAHAM: When they say 98 percent of the waste
4 will be cleaned out.

5 MR. CAMERON: 98 percent of the waste that was in the
6 high-level waste tanks. That's what Barbara was referring to.

7 MR. ABRAHAM: I'm wondering if you could give us an
8 idea of --

9 COURT REPORTER: I'm sorry, I can't hear his
10 questions.

11 MR. ABRAHAM: I'm wondering if you could give us an
12 idea of the quantity of waste that is not covered by the
13 Demonstration Project's activities and whether these standards
14 are going to apply to those wastes?

15 MR. PARROTT: Let me go ahead and take a stab at
16 that. I don't know the specific numbers, but there are various
17 waste management areas contained in the SDA that I mentioned
18 before.

19 And we've got significant amounts of radioactive
20 wastes in them. The standard, as I said, will apply to
21 everything. We don't have authority to apply it to the SDA,
22 but all the other areas outside of what DOE is doing, will be
23 applied to those areas as well, yes.

24 MR. CAMERON: Okay, and then we have some more
25 information from Dan Westcott, DOE, and please speak into the

1 mike, Dan.

2 MR. WESTCOTT: Yes, Dan Westcott with West Valley
3 Nuclear Services. If I could use the graphic up here, I think
4 I could shed some light on Gary's question.

5 The focus of the West Valley Demonstration Project
6 was the vitrification of the high-level waste. Congress
7 directed West Valley to vitrify the high-level waste because
8 the overwhelming source term at West Valley is associated with
9 the high-level waste tanks.

10 A the time the West Valley Demonstration Project Act
11 was passed, there was over 30 million Curies of radioactivity
12 in the high-level waste tanks.

13 When the vitrification process began operations back
14 in 1996, there was approximately 24,000,000 Curies of
15 radioactivity in those high-level waste tanks. That is by far
16 the largest source of radioactivity onsite.

17 Now, Barbara has said that we've done a very good job
18 at removing the overwhelming majority of those 24,000,000
19 million Curies of radioactivity. They're safely solidified
20 into vitrified canisters.

21 Now, to put that 24,000,000 Curies into perspective,
22 the residual inventory that remains in the process building is
23 on the order of 10-20,000 Curies, much, much less than the
24 24,000,000 Curies.

25 And in the disposal areas, the NRC-licensed disposal

1 area and the state-licensed disposal area, we're talking on the
2 order of a couple hundred thousand Curies, so by removing the
3 risk associated with the 24,000,000 Curies, you've attacked the
4 major source term, the major risk onsite.

5 MR. CAMERON: Okay, great, thank you, Dan. Are there
6 other issues that people would like to talk about?

7 At some point, we're going to move into giving you an
8 opportunity to make some formal statements, but let's make sure
9 we get these other issues out.

10 Ray Vaughn?

11 MR. VAUGHN: Ray Vaughn, West Valley Coalition and
12 CTF. I want to talk to Jack Parrott of the NRC, generally,
13 about the so-called three components of the draft policy
14 statement.

15 It's sometimes phrased as a two-step process in some
16 of the other things we've seen. The concern that I have is
17 that the license termination rule would be applied or
18 prescribed now or in the very near future by NRC.

19 And prescription of the decommissioning criteria is a
20 specific step that's called for in the West Valley
21 Demonstration Project. I am concerned that there is a later
22 step that's also called prescription that is rather vague, and
23 raises the question of whether a second, later prescription
24 step could supersede or override the first one.

25 I see this as a serious legal ambiguity, that there

1 are these two prescription steps, separated by many years, to
2 accomplish what the West Valley Demonstration project calls for
3 as a single act.

4 MR. PARROTT: First of all, let me try to describe it
5 in the terms that we usually use with the licensees. At a
6 typical licensee's site, when they go to decommission, we
7 wouldn't need to prescribe the license termination rule because
8 it already applies to that, okay?

9 So they would come into us with a decommission plan,
10 and they would say this is the way we intend to meet the
11 license termination rule, and that maybe -- for instance, they
12 didn't go for unrestricted use.

13 Okay, we're going to meet the 25-millirem per year
14 dose limit. We would review their analysis, we're okay with
15 it; we would approve it, and that, in the same sense we're
16 using it here, that is when we would prescribe what the
17 decommissioning criteria is going to be for that site.

18 Now, let me try to get to your concern. I think --
19 and correct me if I'm wrong -- what I'm hearing is, we're
20 prescribing -- in this case, we actually have to prescribe the
21 license termination rule, because there isn't a licensee, per
22 se, at this site.

23 So we have to prescribe the license termination rule.
24 It's a range of options.

25 We and NYSERDa are going to look at those, come up

1 with a preferred alternative, show that it meets something in
2 that range.

3 And then we're going to look at it to see that the
4 specific situation, the specific criteria that they intend to
5 meet, does, in fact, we feel -- we believe that it falls within
6 our license termination rule.

7 So there is this sort of double-prescription step.
8 We don't intend that this second prescription -- well, we're
9 going to look at their analysis and say, well, you could make
10 our license termination rule, let's prescribe something else.
11 We're not going to do that.

12 What we want to do is make sure that they're within
13 the license termination rule, prescribe the specific criteria
14 that are embodied within the range of the license termination
15 rule.

16 MR. CAMERON: Ray, do you think that this is
17 something that should be clarified when the policy statement is
18 finalized?

19 MR. VAUGHN: Yes, I do. I think that what you
20 described makes sense up to a certain point, and that is
21 setting the decommissioning criteria up front, setting the
22 rules, is exactly what we would like, and then verifying later
23 that the rules have been met, as you put up there, verifies
24 specific criteria meets the LTF.

25 Yes, that certainly makes sense. My concern is just

1 the way the word, prescribe, is then used in that same sentence
2 as this last later step. That's a word that's in the West
3 Valley Demonstration Project and means something rather
4 specific.

5 I would advise you not to use that word again,
6 because it raises this question of whether you might be second-
7 guessing what you said the first time.

8 MR. CAMERON: Great, thank you for that comment.
9 Other issues that people want to bring on the floor now before
10 we go to a formal comment period?

11 Jeannette Eng, from the EPA. Jeannette, please speak
12 into the microphone, so the stenographer can hear you.

13 MS. ENG: I wanted to ask the NRC if they could
14 elaborate a little bit more on the five-year review. I think
15 that in your policy statement, you indicated that if the
16 decision is for the restricted use, that if the institutional
17 controls fail, that if the doses are, you know, calculated,
18 that they could be 500 millirem per year, that you would
19 require a five-year review.

20 I guess the question is, what does that five-year
21 review entail, and who does that review?

22 MR. PARROTT: First of all, let me try to clarify
23 what you said. The way it's set up in the rule, the five-year
24 review or less time period, but no more than five years between
25 reviews, is the period set up so that when we check on

1 institutional controls, this wouldn't be we're checking on that
2 it's no more than 500 millirem.

3 What we're checking on is that it's 25 millirem
4 because the institutional controls keep it there. What we're
5 checking are the institutional controls every time period.

6 MS. ENG: So the NRC would be doing that check? When
7 you're saying, "we're going to check that," you mean the NRC?

8 MR. PARROTT: I don't think that's precisely defined.
9 It could be NRC; it could be some institutional controlling
10 body, some other government agency. Any other possibilities?

11 MR. CAMERON: Bob, could you use the standup, please,
12 and we'll keep this over here? Thank you.

13 MR. NELSON: Bob Nelson, NRC. No, we don't view that
14 as an NRC recheck. The regulation requires that sufficient
15 financial assurance be provided, that an independent third
16 party, also named and agreed to in advance, that there's enough
17 financial assurance there to do the checks, no less frequently
18 than every five years, and to take whatever corrective action
19 is necessary to ensure that the institutional controls remain.

20 That's something that needs to be set up by the
21 organization that's applying for the institutional --
22 termination under restricted use. They have to demonstrate to
23 us that there is a mechanism that would allow some -- since
24 we're talking about the 500 millirem cap scenario, that's the
25 only place this five-year recheck applies -- some durable body

1 has the ability and the funds to complete that five-year
2 recheck, and that there is an agreement between the person
3 applying for restricted release, and that body, whatever that
4 is, to do that.

5 MS. ENG: The thing would be that in your draft
6 policy, you indicate that a five-year review before the level
7 where we reached the 500 millirem per year or in your
8 calculations of failure of institutional control.

9 I guess what we would recommend is that that type of
10 review be instituted whenever you have a restricted release
11 scenario, rather than just at a restricted release scenario
12 that is so severe that you're at 500 millirem.

13 MR. CAMERON: Okay, thank you for that
14 recommendation, Jeannette. Let's go to Diane at this point --
15 oh, great, let's go over there.

16 I'd just ask you to identify yourself for us, and
17 speak clearly into the microphone.

18 MS. LAMBERT: I'm Lee Lambert. I've been a member of
19 the Task Force for the past year and a half, and I represent
20 the League of Women Voters.

21 I have a question about that statement that he just
22 made about the financial assurance and somebody taking care of
23 this. I have some real qualms about that.

24 Considering the political climate at any particular
25 time in any particular state, I think we could be in deep

1 trouble if we don't have some entity that is watching it,
2 whether it's called NRC or it becomes something else at some
3 point; that there is not someone watching over and making sure
4 that this is watched, and that some political notion -- if some
5 territory decides not to bother with it, and -- thank you.

6 MR. CAMERON: I think that the NRC can speak to that.
7 Bob? Do you have the concern?

8 MR. NELSON: I think I do.

9 MR. CAMERON: All right.

10 MR. NELSON: The license termination rule has
11 institutional controls as a graduated application of that
12 institutional control. There's two caps, a 100-millirem cap
13 and a 500-millirem cap.

14 What I mean by that is, if you apply for release
15 under restricted release, you have to look at the dose
16 consequences, if those institutional controls fail.

17 At the 100-millirem -- so there's two levels. If
18 it's under 100-millirem, there's one set of criteria. If it
19 exceeds 100 but does not exceed 500, there's a more restricted
20 set of criteria.

21 The five-year recheck requirement comes in under the
22 more restrictive 500-millirem cap scenario. And under that
23 case, we would look to -- the rule says a durable -- talking
24 about durable institutional control or durable body.

25 What we're looking for there is some government

1 entity, state or Federal Government, to be that entity that has
2 that responsibility.

3 It is the -- in this case, it would be DOE's
4 responsibility, if this were the case, to identify what that
5 government body is, and make the agreement with that body,
6 whether it be NYSERDA, New York, or some agency of the Federal
7 Government, to take on that responsibility.

8 They would have to demonstrate through some agreement
9 that's signed between the DOE and that other body, that that
10 responsibility is there, and that there is sufficient financial
11 assurance in place for that body to take whatever action it
12 needed to ensure that the institutional controls remained in
13 effect.

14 At the lower level, the 100-millirem level, that
15 could be -- that would not necessarily need to be a government
16 body; it could be. It could be some other entity.

17 The different types of entities and the different
18 types of institutional controls are, I think, pretty well
19 described in this EG 4006 document, the one that was talked
20 about earlier.

21 I think that describes the kinds of institutional
22 controls we would find acceptable at the various levels, at
23 these two different criteria levels.

24 MR. CAMERON: Okay, thank you, Bob. Do you have a
25 followup?

1 MS. LAMBERT: I have a followup and comment on that.
2 You know, I don't know that the NRC could mandate any kind of
3 funding, though, at any point, to any government institution.

4 MR. NELSON: We would have to look at the cost
5 estimate that -- and find that cost estimate to be acceptable.
6 And there are, again, in this guidance document, there are some
7 formulas for calculating what that financial assurance cost
8 should be.

9 And we would have to not only find if the cost
10 estimate was acceptable; we'd have to find that the mechanism
11 for ensuring that those funds were available, is also
12 acceptable, some kind of setaside funds, some kind of -- again,
13 those types of different funding mechanisms, I think, are
14 described in this Regulatory Guide.

15 MR. CAMERON: Okay, thanks, Bob. We're going to go
16 to Diane, and then Ray, and then Jim Rauch, and this gentleman,
17 and then I think we're going to get pretty near where we need
18 to move to some formal statements.

19 But let's go to Diane first.

20 MS. D'ARRIGO: I wanted to know if the -- I wanted a
21 clarification of this, which came up at a different site where
22 the license termination rule of the NRC is being implemented.

23 Maybe I've misunderstood what went on at this other
24 site, but is it true that the NRC is not responsible for
25 offsite contamination, even if that contamination is from the

1 site that's being decommissioned?

2 MR. CAMERON: Okay, who wants to address that?

3 MR. LIEBERMAN: You're referring to from a licensed
4 activity?

5 MS. D'ARRIGO: Yes.

6 MR. LIEBERMAN: That would be covered under the
7 license termination rule. We would expect the entity to have
8 the license to be responsible for the material that got
9 offsite.

10 MS. D'ARRIGO: Is that what is happening at Yankee
11 Rowe?

12 MR. LIEBERMAN: Frankly, I can't speak to Yankee. I
13 don't know what's happening at Yankee Rowe.

14 MS. D'ARRIGO: I was just wondering if the same thing
15 that slapped them in the face, might slap us in the face here.
16 My understanding -- and, again, I wasn't there, so I might not
17 have it straight -- is that there's contamination that came
18 from that facility that went offsite.

19 And the cleanup plan does not take into
20 consideration, the doses from that offsite contamination, nor
21 does it require the cleanup of offsite contamination.

22 And I just wanted to find out early on here, whether
23 that was the way it would be here also.

24 MR. LIEBERMAN: Well, we'll certainly take that
25 comment, but my understanding, being in the NRC for many years,

1 is that we've always held licensees responsible for material
2 that they released or from their activity going offsite. I'll
3 check on the issue at Yankee Rowe.

4 MS. D'ARRIGO: Great.

5 MR. CAMERON: Okay.

6 MR. CAMPER: I'm like to add to that. We'll look
7 into your point on that, but let me just say this: We have
8 sites that are undergoing decommissioning right now. And there
9 is known contamination offsite that the licensees are expected
10 to and are cleaning up as part of their decommissioning plan.

11 We have -- there are at least a couple of those that
12 come to my mind right now where that is happening. And they
13 are responsible for that if it's contamination from licensed
14 activities. They are addressing it in their decommissioning
15 plans, and we will be expecting a cleanup.

16 MR. CAMERON: Okay, we're going to go to Ray Vaughn;
17 then we're going to go to Jim. Ray?

18 MR. VAUGHN: Ray Vaughn. I want to ask NRC about the
19 five-year review period that would apply in the 500-millirem
20 capped restricted release scenario.

21 I just wanted to remind everybody that institutional
22 controls at this site are apt to be a much more difficult
23 question than they might be at many sites, simply because
24 erosion is nibbling away at the site.

25 All the projections done to date show that over a

1 period of, say, a thousand years, erosion really eats into a
2 lot of the waste management areas.

3 But let's say we're to go with the 500-millirem cap
4 restricted release scenario. The way I would see it is that
5 NRC or its responsible representative, would have to revisit
6 the site every five years to see whether erosion was gaining
7 the upper hand.

8 That's really the main way in which institutional
9 controls would be lost at this site. It's not so much a
10 government entity not being here, it's maybe not paying
11 attention to what it needs to, to prevent very severe erosion
12 from happening.

13 What sort of technical reviews would you foresee
14 happening to look at that?

15 MR. CAMPER: Rather than describing the particular
16 technical review, let me say that it would be that particular
17 technical analyses or reviews would be a function of the
18 particular site characteristics and the phenomenon, such as,
19 for example, erosion, as you're pointing out, that was current.

20 Let me point out that the five-year time period that
21 we're talking about is an outer bound. It's actually no less
22 frequently than five years, and clearly, you're right, your
23 perceptions are on the mark.

24 If something is going to on at a site such as
25 significant erosion that is clearly subject to change, then the

1 frequency of monitoring is going to have to be more aggressive,
2 the level and nature of technical review that's being done,
3 and, of course, the action that you'd be taking.

4 So you're right, but I just want to point out that
5 it's no less frequently than that.

6 MR. CAMERON: Okay, thanks, Larry. Let's go to Mr.
7 Rauch for a question or a comment.

8 MR. RAUCH: Actually, I'd have both; I have a
9 question that I will address first. And this would be to the
10 NRC representatives here:

11 How did the draft policy have a decommissioning
12 criteria for a licensee SF-1, the license that's in abeyance
13 now, the license that formerly was an NSF license that when
14 they went belly-up was handed over to the State of New York and
15 was put in abeyance when the feds had to come in and bail it
16 out -- that portion of the draft statement says the criteria in
17 the LTR and also by determination of NYSERDA's NRC license in
18 the West Valley site, once that license is reactivated.

19 I'd like to get a clearer idea of just what that
20 license will cover, as clear as we can possibly have, granted
21 that there have probably been discussions about this going on.

22 You know, from what I hear tonight, this would be a
23 my understanding a little bit, is that we're talking about
24 decommissioning project premises under the LTR and the NDA.
25 We've got an ongoing DIS process that's supposed to be holistic

1 and overarching control of the whole site closure.

2 And yet we've got this license in abeyance that's
3 going to come back at some point. I'd like to know when it will
4 come back.

5 I'd like to know what it will cover, and how it
6 interconnects with the draft EIS process and what's going to
7 come out of that.

8 Will it be restricted to what? To the SDA, which
9 Paul Merges is claiming increasing control over?

10 MR. CAMERON: Okay, I think that this is important to
11 give an overview, Jack, of how all this is going to work. And
12 hopefully you can provide us with that information.

13 MR. PARROTT: Yes, the plan -- the path forward on
14 this is not precisely defined, but the way I see it happening
15 is that through the EIS, the entire site is evaluated.

16 And once, you know, West Valley Demonstration Project
17 is required to decontaminate decommissioned parts of the site
18 that they've used, once they've done that to the terms of our
19 license termination rule, then the parts of the site that are
20 left -- and I'm not going to speculate on what those would be,
21 but some part of the site may be left under NYSERDA's
22 responsibility, and those parts of the site would come under
23 the license.

24 And then it would be their responsibility to
25 terminate those -- to decommission and terminate the license on

1 those parts of the site that they still possess that haven't
2 been decommissioned under DOE.

3 MR. CAMERON: Okay, I'm not sure that you addressed
4 everything, but let's give Mr. Rauch one followup on this.

5 MR. RAUCH: Well, I'd like to get an answer here,
6 quite frankly, and that's not an answer. My answer is that I'm
7 under the misapprehension, perhaps, that this is going to --
8 this LTR decision is going to close out the project premises.

9 You know, what controls you? The EIS decision?

10 I think for efficiency, I'd just like to be able to
11 follow up here and see where we're going.

12 Can we talk about time lines here, perhaps?

13 MR. PARROTT: Well, it would be difficult to
14 speculate on a time line, but the EIS is just one step in that
15 process. It will go and evaluate the closure of the entire
16 site, decommissioning of it.

17 It will look at the license termination rule, and
18 after that whole scenario is played out and they come to a
19 record of decision on how they're going to decommission the
20 site, then they have to issue or submit a decommissioning plan
21 that has to be reviewed.

22 MR. RAUCH: If NRC comes down with a termination and,
23 say -- I mean, we've heard from Barbara Mazeroski that they're
24 going to be onsite for quite awhile.

25 Now, let's say the decision is reached on the LTR,

1 and the parameters are worked on, and then the EIS decision is
2 reached at a later date. Is it conceivable to anyone in NRC
3 that the NEPA decision could be subject to -- could override or
4 change the LTR decision of NRC and could be subject to public
5 judicial review?

6 I also have a comment that I would like to reserve a
7 right to make at the end here.

8 MR. CAMERON: Okay, we'll let you make that comment
9 as part of the formal comment process. I think that what the
10 issue is here, is what is the schematic, so to speak, about how
11 does NEPA relate to the NRC's compliance evaluation decision,
12 and how does NEPA relate to what the Department of Energy and
13 NYSERDA decide to follow in terms of an option.

14 I think that one thing that's coming out of your
15 comment is perhaps there is a need when the policy statement is
16 finalized, to try to spell out clearly to people, how all those
17 steps interrelate, because it is confusing.

18 All right, yes, sir? You had a comment, right?

19 MR. PATTI: The comment is that I want to start the
20 formal presentation so I can get out of here.

21 [Laughter.]

22 I have been know to be to the point, and I have a
23 10:00 appointment, so --

24 MR. CAMERON: Okay, fine.

25 MR. PATTI: I need to do this.

1 MR. CAMERON: Just state your -- do you want to come
2 up here?

3 MR. PATTI: I guess.

4 MR. CAMERON: Maybe that would be easier for you.

5 Okay, we'll start off the formal comment period, and
6 if you could just state your name, sir, and go to it?

7 MR. PATTI: My name is Joe Patti, and I am speaking
8 on behalf of the CTF. We have put in three years in this
9 process of trying to make a decision on what to do for the
10 site, the community, and working with NRC, DOE, NYSERDA.

11 It definitely is a complex issue. I think that the
12 people that are in the room have given all of themselves to
13 finding out what we need to know to make it best for our
14 community.

15 I think that the people in this room are very capable
16 of coming up with a solution, if we all work together.

17 I remember a few years back where we couldn't have
18 discussions like we are having tonight, or the discussions that
19 we've had over the last three years at our CTF in coming up
20 with some great solutions.

21 Tonight, I would like to present CTF's formal written
22 comments, again. Some of them are the same topics that have
23 been presented tonight from definitions, use of certain words,
24 paraphrasing, and the definition, again, of institutional
25 controls.

1 I do not want to spend all of your time reading our
2 nine points. What we have done is, we have printed 100 copies
3 of them that will be available at the front for everybody to
4 digest and figure out what we're saying.

5 But I think it is what everybody in the room has been
6 saying, and with that, I do not want to take any more of your
7 precious time, and I would like to just present this document
8 to you.

9 MR. CAMERON: All right, thank you very much, Joe.
10 That will go on the record. Thank you.

11 Lana, do you want to say what you wanted to say now,
12 please? This is Lana Redeye.

13 MS. REDEYE: Thank you very much, and good evening to
14 everyone. My name is Lana Redeye. I'm a member of the Seneca
15 Nation of Indians. I'm also a member of the Herring Clan, and
16 my clan name is [speaks Indian language].

17 I'm here tonight as a representative of the Seneca
18 Nation. I'm also the Nation's representative on the West
19 Valley Citizens Task Force, and also the Nation's
20 representative on the DOE State and Tribal Government Working
21 Group.

22 I've been involved with various aspects of the
23 activities here at West Valley for a good number of years,
24 probably more than I care to think about, probably 15, anyway.
25 I was on the New York State Low-Level Nuclear Waste Committee

1 many years ago when I first had my first exposure -- pun
2 intended -- to the West Valley site.

3 [Laughter.]

4 MS. REDEYE: The remarks that I'm going to read into
5 the record are solely the comments of the Seneca Nation's
6 Government, its Council, and the Seneca people.

7 The Seneca Nation of Indians is a sovereign,
8 federally-recognized Nation of people having three territories:
9 The Allegheny, Cattaraugus, and Oil Springs Reservations.

10 Located approximately 20 miles upstream of
11 Cattaraugus Reservation on our aboriginal lands is the Western
12 New York Nuclear Services Center, including the West Valley
13 Demonstration Project.

14 Flowing through the project site are tributaries to
15 Cattaraugus Creek. These tributaries receive all surface water
16 runoff, groundwater, and industrial discharges from the project
17 site.

18 Cattaraugus Creek flows through our land and has
19 nourished and nurtured our cultural traditions for as long as
20 we have been [speaks Indian language], the People of the Great
21 Hill.

22 We are very concerned about the ultimate closure
23 decisions which will be made for the West Valley site,
24 particularly the potential for downstream contamination of the
25 creek and our natural resources.

1 If waste remains at the site, failure of the West
2 Valley site integrity will result in the exposure of our people
3 to potentially high doses of radioactive substances if waste
4 remains at the site.

5 We cannot afford any compromise of our remaining
6 lands due to contamination from the West Valley site. We think
7 that the license termination rule could be an effective tool
8 for cleaning up the West Valley Demonstration Project and the
9 Western New York Nuclear Services Center.

10 We have several comments to improve the draft policy
11 for applying the license termination rule which I will
12 summarize:

13 In some instances, the policy statement paraphrases
14 the license termination rule. For clarity and consistency, and
15 where practicable, the wording in the policy should be
16 identical to the wording in the license termination rule.

17 We are opposed to reliance on long-term institutional
18 controls, and think that the NRC's policy on applying the
19 license termination rule should give priority to the 25-
20 millirem per year criteria for unrestricted use. That is the
21 most protective criteria.

22 We are concerned that the NRC and the DOE are not
23 fully considering the potential problems of the restricted use
24 criteria, stewardship, and long-term institutional control.

25 Can site control be enforced and maintained? Will

1 long-term institutional control be cost-effective in the long
2 term, or will it become increasingly expensive as engineered
3 controls fail and replaced with more complex solutions?

4 For NRC and the DOE to simply state that
5 institutional controls will be maintained, does not seem to
6 address the feasibility of implementing long-term institutional
7 controls for hundreds to thousands of years.

8 The NRC should require a full explanation of the
9 costs, management, repair, and maintenance needs for restricted
10 use, to show that these alternatives would not cause human or
11 environmental harm, or be prohibitively expensive or
12 technically infeasible. Otherwise, how will the NRC know if a
13 plan for restricted use would qualify for license termination?

14 We urge the NRC to adopt a policy which emphasizes
15 that residual contamination be as low as reasonably achievable.

16 Indian Nations have been critical of cleanup
17 standards which have been developed using conventional risk
18 assessments. Typical risk assessments ignore tribal cultural
19 values and practices, and do not accommodate our unique
20 cultural, social, and spiritual needs.

21 This lack of understanding of our culture puts tribal
22 people at more risk than the hypothetical individual assumed
23 for technical risk assessment models.

24 The Seneca Nation, like many other Indian Nations,
25 has different views on the use and protection of the natural

1 world. We have standards that are above and beyond those set
2 by federal or state laws.

3 Consequently, the Seneca people have zero tolerance
4 for contamination of our environment, because even low levels
5 of contamination released into the environment and absorbed by
6 plants and animals will eventually reach us.

7 All plants and animals have spiritual and cultural
8 significance to the Seneca people and are crucial to the web of
9 life. A compromised plant or animal species or the elimination
10 of a plant or animal species directly impacts the natural world
11 and our cultural responsibilities to it.

12 These concerns are critically important to our people
13 because the natural world has always served as the foundation
14 of our culture and identity, and it is the key to our survival.

15 Assigning one system, the human system, as the
16 critical group is a too-narrow definition of the most likely
17 exposure scenario based on prudently conservative exposure
18 assumptions.

19 The draft policy should be reexamined for any
20 indications that the relation to NRC policy or guidelines
21 regarding Native Americans.

22 How does this policy reflect the NRC's federal trust
23 responsibility to ensure that tribal treaties and other
24 federally-reserved rights and concerns are protected?

25 What are the implications of this policy in relation

1 to DOE's revised American Indian Policy?

2 In conclusion, since this policy statement will set
3 NRC's method of action to guide and determine future decisions
4 regarding the West Valley site, we think it should be written
5 so that it's subject to as little interpretation as possible.

6 We think that NRC's policy should always be to
7 require the cleanup level that most restores and protects the
8 environment.

9 MR. CAMERON: Thank you very much.

10 [Applause.]

11 MR. CAMERON: Diane, would you like to go next?

12 MS. D'ARRIGO: I think what we've always known since
13 those of us who have been studying this site have been studying
14 it, is that it needs to be dug up.

15 All of it needs to be dug up. You can't leave the
16 tanks there, you can't leave the trenches there.

17 It has to be dug up, and it has to be dug up now or
18 very soon, and we've got to create the political momentum to
19 force the monies to show up somewhere so that we can actually
20 do another demonstration project at this site.

21 This community has been very responsible. We pushed
22 before the West Valley Demonstration Project to have worked
23 with, not against the government agencies and the companies
24 that have been working on the cleanup, and we insist that the
25 material that's buried there not be allowed to erode into the

1 Great Lakes, into the environment, and have no faith that there
2 will be monies when that erosion actually occurs to come in and
3 clean it up then.

4 You know, is it going to happen when one of the five-
5 year checks occurs, and then all of a sudden we need however
6 many billions of dollars, and do something to stop the stuff
7 from leaking.

8 I think that it's been a pretty consistent feeling of
9 the community that I have been aware of in the years that I've
10 been working on this issue, which is about 20, that the site
11 needs to be dug up, and it needs to be dug up and stored
12 retrievably and managed now.

13 Where it goes from there is obviously a difficult
14 question, but keeping it in the ground where we all know it's
15 going to leak out is unacceptable.

16 So whatever standards or rules or agency
17 jurisdictions need to apply, need to be made to apply now, and
18 it is incumbent on all of the agencies, the DOE, the NRC,
19 NYSERDA, DEC, EPA.

20 Every single agency has a responsibility to do what
21 it can to get that site into a condition where it is not going
22 to leak, and where it is not relying continually on
23 institutional controls to manage what's in the ground.

24 We may need institutional controls to maintain what's
25 stored above ground, but it's something that's more visible and

1 manageable, and that's what needs to happen there.

2 Sixty-percent of the waste is from federal
3 activities; 40 percent from commercial that was encouraged by
4 the Government, so it's not something that can simply be dumped
5 on New York alone.

6 New York and the Federal Government all have to do
7 their part and get this stuff up out of the ground.

8 I just have one more point. It's on the NRC's
9 cleanup requirements, and actually it's on many of the
10 agencies' cleanup requirements.

11 I don't really believe in millirems. I don't know
12 how someone can prove that. How do I show that I have received
13 26 or 101 or 501 millirems, and I am the average member of the
14 critical group, or am I just somebody who gets a higher dose,
15 and I can be averaged in with the rest of the group?

16 The standards that are being postulated are not
17 enforceable, and what needs to happen is that the waste has to
18 be exhumed and put into a condition where it's going to provide
19 the minimum exposure.

20 It's possible, according to the DOE ZIS, to actually
21 perform an exhumation of the entire site, and that's what I
22 think needs to happen here.

23 And, finally, the comment period itself, finding out
24 at the beginning of December that at the beginning of January,
25 this is it for us to comment to the NRC is not acceptable.

1 This is an issue that we need at least six more months for the
2 local community to even find out about it.

3 I have friends that live here that didn't even know
4 that this was happening, and couldn't get here tonight, who
5 care a lot about this site and this issue.

6 And writing comments is one thing, but I think there
7 needs to be a followup meeting in a few months, once the
8 community is aware of it, once the news articles are out, that
9 this is actually another stage in the final decisionmaking on
10 what's going to go on with this site.

11 It's pivotal, even though it may sound not as pivotal
12 as -- you know, it's not -- my request is for an extension on
13 the comment period of at least six months, and a followup
14 meeting that is held on this issue prior to the end of that
15 time. Thank you.

16 MR. CAMERON: Okay, thank you, Diane. Ray? No?
17 Paul Piciulo?

18 MR. PICIULO: Thanks, Chip. I just want to make a
19 couple of comments, some of which are repetitive from what I
20 said before.

21 But on behalf of the New York State Energy Research
22 and Development Authority, we'd like to commend the NRC on the
23 open and responsive process that led to the issuance of a draft
24 policy statement.

25 We also want to thank you for being here tonight to

1 listen to the stakeholders of West Valley to discuss the issues
2 surrounding this site. I think it's very important and very
3 helpful to us.

4 We, too, will be providing the NRC with some written
5 comments on the draft policy statement later this month.
6 However, I'd like to take the opportunity to mention some of
7 the matters that we believe need clarification, and we would go
8 into them in more detail in writing.

9 First, NYSERDA is pleased that the Commission has
10 applied the license termination rule as the decommissioning
11 criteria for West Valley for the West Valley Demonstration
12 project.

13 We appreciate the Commission's clarification also
14 that the same criteria will apply to DOE and to NYSERDA. We
15 believe that the application of the license termination rule
16 would be protective of public health and safety and the
17 environment.

18 We note, however, that substantial issues, including
19 the specific criteria to be applied at West Valley, and the
20 potential application of the incidental release criteria were
21 not addressed in the draft policy statement. We expect that
22 the Commission staff will continue to work with DOE, NYSERDA
23 and the other stakeholders to clarify these issues.

24 Further, it remains NYSERDA's position that if DOE's
25 decommissioning of the WVDP facilities requires any

1 institutional controls or maintenance of any of these
2 engineered barriers to meet the decommissioning criteria
3 prescribed by NRC, then DOE must remain at the site to provide
4 those institutional controls and maintain and monitor the
5 performance of those engineered barriers.

6 NYSERDA also believes that any dose criteria must
7 consider this site as a whole, and I think there were a lot of
8 comments on that tonight, and that was kind of the intent, I
9 think, from the very beginning of this CIS process.

10 And the Commission will need to consider the
11 interplay between requirements of the license termination rule
12 for the decommissioned portions of the site, and then the dose
13 criteria that will govern any non-decommissioned portions of
14 the site.

15 Although the state-licensed disposal area is not
16 subject to NRC's immediate regulatory jurisdiction, the
17 Commission's exercise of its responsibilities for this site
18 clearly have got to coordinated with the Department of
19 Environmental Conservation's exercise of its regulatory
20 responsibilities, so that ultimately they both work together at
21 this site.

22 And, finally, we expect that the NRC will continue to
23 be closely involved in the activities at the West Valley site,
24 including the detailed planning process for the closure and
25 long-term management of the facilities, and the implementation

1 of those future policy decisions.

2 With that, I thank you for the opportunity and thank
3 you for being here.

4 MR. CAMERON: Thank you, Paul. Barbara, would you
5 like to say something at this point?

6 MS. MAZEROSKI: We will also be submitting written
7 comments to the NRC. The Department of Energy appreciates the
8 opportunity that the NRC has given to the public and to the
9 involved agencies to comment on the process for prescribing D&D
10 criteria for the West Valley Demonstration Project.

11 In terms of developing D&D criteria for the project,
12 DOE is interested in the same thing that all of you are
13 interested in: A fair, open process that produces safe D&D
14 criteria.

15 Our position on how this process should be conducted
16 is exactly the same as indicated when I went before the
17 Commission last January.

18 This position was first documented in the Memorandum
19 of Understanding between DOE and NRC in 1981. The Memorandum
20 of Understanding charted the path forward for DOE and the NRC,
21 based on the intent of the West Valley Demonstration Project
22 Act.

23 Section 4 of the Memorandum of Understanding outlines
24 a two-step process for prescribing D&D criteria for the
25 project. In the first step, DOE is to perform an analysis of

1 the risk and impacts of various decommissioning alternatives,
2 based on consultation with the NRC.

3 In the second step, NRC is to prescribe D&D criteria
4 after reviewing the DOE analysis. After the Environmental
5 Impact Statement has been completed and the Commission has
6 prescribed decommissioning criteria, DOE is required to prepare
7 a decommissioning plan.

8 This plan will be reviewed and commented on by the
9 Commission. Finally, after the decommissioning phase is
10 completed, DOE is required to prepare a site status report,
11 describing in detail, the condition of the site at the
12 completion of the project.

13 The site status report will serve as the basis for
14 further licensing action as described in the cooperative
15 agreement with New York State.

16 DOE feels that the process suggested by the SECY 98-
17 251, appropriately described what was always envisioned and
18 reflected in the DOE/NRC Memorandum of Understanding.

19 Also, as expressed in my comments to the Commission
20 last year on SECY 98-251, DOE supports application of the
21 license termination rule to project facilities which do not
22 include the disposal areas, and endorses the use of any ongoing
23 license as the means of providing any necessary long-term
24 institutional controls.

25 Additionally, though not addressed specifically in

1 the December 1999 NRC policy statement, DOE believes that it is
2 appropriate to use the process in DOE Order 435.1 to clean up
3 facilities that contained high-level waste, so that residual
4 material may be declared incidental waste.

5 In summary, we think that the original process agreed
6 to in the DOE/NRC Memorandum of Understanding meets the intent
7 of the West Valley Demonstration Project Act, complies with
8 NEPA, and promotes a fair, open process that will produce safe
9 D&D criteria.

10 MR. CAMERON: Thank you very much, Barbara. We're
11 going to go to Paul Merges from the Department of Environmental
12 Conservation now, and then we're going to go to Jeannette Eng
13 from the EPA.

14 Paul?

15 MR. MERGES: Good evening. My two-hour speech is cut
16 down a little bit.

17 MR. CAMERON: That's good.

18 MR. MERGES: I have copies of what I'm about to say
19 here, and it's a little bit longer, actually. I left it on the
20 table, so you don't have to take notes if you don't want to.

21 We want to thank the NRC for holding this meeting to
22 receive public comments and public participation at the heart
23 of our Department.

24 The Department is glad to see that the CTF has
25 maintained their involvement with the site since inception of

1 the recommendations, and hopefully they will continue to do so
2 in the future.

3 In addition to the information on state regulatory
4 responsibility presented here tonight, we are working
5 diligently to finalize our comments on the NRC policy
6 statement. We intend to submit that during the comment period.

7 In order for interested parties to be fully informed
8 about the decisionmaking process now underway, it is important
9 for them to understand the nature of the state's regulatory
10 involvement in West Valley.

11 Therefore, I would like to take this opportunity to
12 briefly explain the Department's involvement in the EIS process
13 and what's its regulatory and RCRA responsibilities are for the
14 Demonstration Project property and the state-licensed disposal
15 area.

16 It is important for everyone to understand that the
17 SDA is not, nor has it ever been regulated by the Nuclear
18 Regulatory Commission. Unlike the NDA, which was created and
19 licensed to support the fuels reprocessing operations at the
20 site, the SDA was created as a state-licensed commercial
21 radioactive waste disposal site.

22 It is currently regulated under a radioactive
23 materials license by the Department of Labor through DEC
24 permits for the prevention and control of radioactive pollution
25 to the environment, and under RCRA 3008 order, which is a joint

1 order with EPA and DEC and DOE.

2 As such, it is not subject to the NRC license or the
3 termination rule. As a result of tonight's discussions, we
4 will need to discuss the status of federal jurisdiction
5 materials currently reside in the SDA, hopefully in the MOU
6 with the NRC.

7 Although not subject to the license termination rule,
8 potential future impacts from the SDA are part of the ongoing
9 evaluation of the EIS process. All parties have acknowledged
10 that the potential for combined impacts from all of the various
11 facilities at the site need to be accounted for in the EIS.

12 Therefore, though the SDA is not directly subject to
13 the criteria of the license termination rule, its potential
14 impacts have to be taken into account when determining how the
15 NRC decommissioning criteria is to be applied to the non-SDA
16 areas of the site, and what the ultimate disposition of those
17 areas will be.

18 Given the unique nature of the regulatory structure
19 at West Valley, DEC and the NRC are developing a cooperative
20 agreement for the site. The intent of this agreement is to
21 clarify regulatory responsibility for exchange of information,
22 and for providing a method for facilitating a comprehensive
23 approach to determining the disposition of the various
24 facilities at the site.

25 This agreement is expected to be in place by the

1 Summer of this year. West Valley EIS fulfills all federal,
2 NEPA, and state SECCA responsibilities, as well as the 3008(h)
3 order for completion of corrective measures studies.

4 Though the DEC is not recognized as a cooperating
5 agency under NEPA, we are an involved agency under SECCA and
6 have regulatory authority when nuclear waste, hazardous waste,
7 and radiological waste are combined. As such, our staff has
8 been intimately involved in the EIS process, and we continue to
9 be so.

10 One of the goal of the Department is to ensure that
11 all potential sources are taken into account in the evaluation
12 process. We want to ensure that the SDA existing areas of
13 radiological contamination such as the groundwater
14 contamination in the North Plateau and the airborne disposition
15 plume referred to the cesium -- and the RCRA corrective
16 measures to address the hazardous waste components of mixed
17 waste are taken into account in the evaluation process.

18 This concludes my brief comments this evening, and I
19 hope to be able to clarify the nature of the state's regulatory
20 involvement at West Valley for you. If anyone has any
21 questions, see me or my staff who are here, or send us a
22 letter. Thank you.

23 MR. CAMERON: Okay, thank you, Paul. There are
24 copies of Paul's statement up here with the phone numbers on
25 it.

1 Let's go to Jeannette Eng from the Environmental
2 Protection Agency.

3 MS. ENG: Hello, I'm Jeannette Eng with the United
4 States Environmental Protection Agency's Region II Office,
5 which is located in New York City.

6 EPA's involvement with West Valley goes back to the
7 mid-1970s when EPA looked into the problems with the commercial
8 low-level waste disposal area. And we've been involved or
9 assisted in efforts that led to the West Valley Demonstration
10 Project, the legislation that provided for DOE to come in and
11 to address the high-level radioactive waste that resulted from
12 the early spent fuel reprocessing that occurred at West Valley.

13
14 So West Valley has provided many lessons learned with
15 respect to siting, with respect to waste treatment disposal
16 practices, and now in decommissioning.

17 Because West Valley is a complex and unique site, EPA
18 believes it is going to be important for the federal, state
19 agencies, and the local community to work together to address
20 foreseeable issues and seek consensus.

21 The collective goal should be to remediate West
22 Valley of hazardous and radioactive contaminants in a
23 coordinated operation, and to not approach it as an iterative
24 process.

25 We do agree with the NRC draft policy to prescribe

1 decommissioning criteria for West Valley before the completion
2 of the EIS, and we're glad they did that. By doing so, the
3 U.S. Department of Energy will have a consistent basis to
4 identify, compare, and assess various decommissioning options
5 for the site.

6 However, EPA does have concerns over the cleanup
7 standard, waste disposal, the groundwater protection,
8 institutional control, non-radiologic contaminants, that we
9 believe should be addressed as DOE proceeds to develop the
10 cleanup options and decommissions the site.

11 Some of these issues such as the cleanup standard and
12 the restricted release scenario, I have addressed in the
13 discussion period. I have fuller comments which I'd like to
14 ask if you could incorporate into the record, in the interests
15 of time.

16 MR. CAMERON: Thank you, Jeannette. We will do that.

17 All right, are there others in the audience who want
18 to make a statement at this time?

19 Lee?

20 MS. LAMBERT: I'm Lee Lambert from East Aurora, New
21 York. I've had a lifelong interest in nature and the
22 environment, spurred by a great school trip to the Buffalo
23 Museum of Science that led to years of after-school classes,
24 including Native American culture, birds, mammals, mineralogy
25 and geology.

1 A teaching assignment at what was then called the
2 Cattaraugus Indian School led me to a particular interest in
3 the plight of reservation residents, and later to monitor
4 decisions being made in regard to the West Valley site as they
5 impact those occupying the areas occupied by the Seneca Nation
6 and also by anyone near Cattaraugus Creek or living along Lake
7 Erie.

8 As a longtime member of the League of Women Voters,
9 I'm dedicated to good government practices, including the
10 people's right to participate in the decisionmaking process.

11 In addition to those better-known positions regarding
12 good government, the League also holds numerous positions on
13 other topics with which I concur, most notably the topic of
14 natural resources.

15 These positions address the protection of land, air,
16 and water, including pollution and land use issues, among
17 others.

18 I have been impressed by the people involved in the
19 Citizens Task Force, their dedication and decorum. I watched
20 the proceedings for over a year before I joined the group, and
21 I find it heartening that we have reached a point where the
22 fruits of the labors of that committee are being seen and
23 responses made by government entities in charge.

24 As a participant in the dialogue with the Department
25 of Energy on nuclear waste from weapons production a year and a

1 half ago, I can honestly say there is an apparent improvement
2 in government response to people's concerns which I hope to see
3 continue.

4 I was particularly heartened by the reactions of the
5 five Nuclear Regulatory Commissioners who took the original
6 draft drawn up by the staff and made significant and necessary
7 additions to help develop a strong statement on behalf of the
8 environment.

9 Among the points made by the CTF, the Task Force, was
10 the issue of institutional controls, often retitled
11 stewardship. The institutional controls necessary for this
12 site, even if they were to be defined more precisely than they
13 we have heard them thus far, will be impossible to achieve.

14 If the dangers of Love Canal were ignored in less
15 than 50 years, we cannot expect future generations to care as
16 much as we care now about the dangerous radioactive materials
17 and other materials at this site.

18 No government can impose budgets on its successor.
19 Thinking even 100 years into the future is mind-boggling.
20 Planning for 1,000 years or more is virtually impossible.

21 It is essential that the people of the immediate
22 area, as well as those of western New York and the Province of
23 Ontario are assured that all that can possibly be done to clean
24 up the site will be done.

25 Postponing of full cleanup until some point in the

1 future is not only reckless, but will be unduly costly, if,
2 indeed, the political will is even there to tackle the problem.

3 I urge you to take seriously, the points made by the
4 CTF, all of which serve to strengthen the document even more in
5 the interest of protecting the people in the area in the
6 future, far beyond our lifetimes. Thank you for this
7 opportunity to be heard.

8 MR. CAMERON: Thank you very much, Lee. Gary?

9 MR. ABRAHAM: Gary Abraham, Concerned Citizens of
10 Cattaraugus County. I want to thank the NRC and the agencies
11 here for enlightening me. I learned quite a lot about the
12 complexity of the jurisdictions involved here.

13 It's precisely for that reason that I would request
14 an extension, a reasonable extension of the public comment
15 period. Thanks.

16 MR. CAMERON: Okay, thank you, Gary. Do we have --
17 Carol?

18 MS. MONGERSON: I don't really have formal comments
19 to make at this time. I am going to submit written comments.

20 And perhaps there are just several issues or comments
21 I want to make, and perhaps I should have made them earlier
22 because I'm not going to read them. I'm just going to mention
23 them.

24 First of all, about the extension, we really need an
25 extension. This was really unconscionable to spring something

1 like this on a group of citizens, all of whom have other jobs
2 and other obligations, particularly during the holidays.

3 And we just don't have the resources to respond to
4 something this complex in such a short length of time,
5 adequately.

6 I want to mention a couple of things that haven't
7 been brought up, and that I will comment more fully on.

8 One that was mentioned was that the cost of
9 institutional controls can be very considerable, and probably
10 greater than cleaning up the site right now, if there is any
11 way to really calculate that.

12 I share the concerns of a lot of people here about
13 institutional controls, and I kind of figured they probably
14 stop very suddenly in a very, very few years.

15 And that we -- I don't think, however, that the site
16 -- I think that the -- we need the LTR, we need the NRC
17 oversight at this site.

18 Even though I have some qualms about institutional
19 control, I feel that the NRC at least provides some, and we
20 need that, at least in the foreseeable future.

21 I would like to see that the site meets LTR for the
22 next 10,000 years, not just for a briefer time. I know it's
23 hard to calculate doses that far, but the doses are only
24 calculated on the maximum dose for the next thousand years, I
25 think it is. I'd like to see that extended to 10,000.

1 Now, this other point, this next point is one that
2 hasn't been mentioned at all tonight, and I think it's
3 extremely important. That is that the site must not be
4 segmented.

5 In other words, we should not terminate the license
6 on one part of the site if there is any part of the site which
7 can't meet the LTR.

8 I'd like to see the entire site retained under
9 control of a license. If any part of it can't meet it -- and I
10 think that is likely going to be the case -- one reason for
11 that is that we will need a buffer zone around the site, the
12 part of the site that can't meet it.

13 And we don't want to release part of that site for
14 unrestricted use. We don't want people to be living right next
15 door to a thing that is not able to be -- to meet the LTR.

16 So, one reason for that is that the old license, the
17 one which is in abeyance, was for the entire site. Now, I
18 don't think you can reactivate that and amend it in a way that
19 would only apply to part of it and meet the intention of the
20 past regulations.

21 I certainly don't want to see the high-level wastes
22 reclassified as incidental, the residual ones.

23 And I know the NRC has resisted DOE pressure in the
24 past, and I hope they will resist it again. We don't think
25 that that properly protects us, and it would really gut the

1 previous protections that had been put in place, the previous
2 regulations.

3 I have a lot of qualms about that alternate criteria
4 section, but it's very complicated, and difficult for us to
5 understand. I can't imagine how they can think that EPA is
6 going to come in and approve this, the use of this alternate
7 criteria. But maybe they know something I don't.

8 I know people are always talking about future
9 generations, but it is a matter of great concern. There are
10 places in this policy where they talk about when they're
11 balancing, whether to clean up further or not, whether we've
12 met ALARA or not.

13 Then they talk about, well, we have to really show
14 that the clearing would cause more deaths and more
15 environmental damage than going ahead and releasing it. I just
16 want to point out that we made this mess, and that it should be
17 our generation that takes the risk, if it's a tossup between
18 risk goes to us or the risk goes to future generations. It
19 should be ours, and I don't know how to define ours. I mean,
20 there are people alive today who are not really -- can't be
21 held responsible, like my five-year old grandson, for instance.

22 But anyway, it's just a sort of a moral/ethical
23 issue.

24 One last thing: The transuranic waste issue must be
25 settled. NRC has a responsibility to settle that, and we'd

1 like to hold them to the statements that they've made about
2 that.

3 They are required by law to make a determination
4 about the definition and the disposition of those transuranic
5 wastes. And this document doesn't really settle that. Thanks
6 a lot.

7 MR. CAMERON: Okay, thank you very much, Carol.
8 We're nearing the end of our time. Does anybody have a final
9 comment?

10 [No response.]

11 MR. CAMERON: I'll turn it over to you, Larry, before
12 we adjourn. I just wanted to thank all of you for your
13 attention and your concern and your courtesy, and also thank
14 our stenographer tonight. Thank you very much.

15 COURT REPORTER: You're welcome.

16 MR. CAMERON: And I thank DOE for the use of this
17 room. Thank you, Barbara.

18 I'm going to turn it over for a final comment to
19 Larry Camper, who is, as I mentioned, the Branch Chief over
20 this effort for the NRC. Larry?

21 MR. CAMPER: Thank you, Chip. I want to thank you
22 for all your comments. I have participated in many public
23 meetings in many places on many regulatory issues.

24 I would particularly comment that your thoughts and
25 comments tonight have been very well thought out, very

1 constructive, and genuinely motivated. I think that's
2 commendable for each and every one of you.

3 From my vantage point, progress is being made here.
4 The DOE has done a great deal to clean up that site. I think
5 that Barbara did an excellent job of summarizing the effort to
6 date, which is substantial.

7 The NRC has applied the license termination rule
8 criteria to the decommissioning effort here. The Commission
9 believes that the LTR is a means for decommissioning that will
10 protect public health and safety with the standard that's
11 prescribed in the regulation.

12 Your Task Force and all of you as members of the
13 public have played and are continuing and will continue to play
14 a vital part in this overall process.

15 We all the same thing, successful decommissioning of
16 the West Valley Demonstration Project site.

17 We have heard a lot tonight, we have a lot to go back
18 and work on. We're going to pour over the transcript with a
19 great deal of attention. We will be reviewing all of your
20 written comments.

21 I assure you that all these comments will receive
22 consideration. We have heard a lot of, I think, very positive,
23 constructive changes, specific changes that could be proposed
24 for modification to the proposed policy statement.

25 Staff will take a close look at those. We've also

1 heard very loudly and very clearly, your desire for more time.

2 I've heard even as much as six months requested.

3 The staff will consider that, and the staff will
4 suggest to the Commission that we should have more time. I
5 can't guarantee that there will be more time, but I suspect
6 that there would be. I would be very surprised if we couldn't
7 find more time.

8 It's a question of how much time. We do need to make
9 progress, but we hear you loudly and clearly that you'd like
10 more time, and we'll take that word back.

11 Again, in closing, I think that what's going on here
12 is what is intended; it's part of the democratic process.
13 You've all made a great contribution, and I genuinely thank you
14 for that. Thank you. Good evening.

15 [Whereupon, at 10:14 p.m., the public meeting was
16 concluded.]

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